



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 12, 2012

Ms. Danielle R. Folsom
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-10812

Dear Ms. Folsom:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. Your request was assigned ID# 463356 (G.C. 19776).

The Houston Police Department (the "department") received a request for information pertaining to a specified accident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.¹

We note the submitted information includes a document that has been filed with a court. Section 552.022(a)(17) of the Government Code provides for the required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). Although you seek to withhold the court-filed information, which we have marked, under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2, 177 at 3. As such, section 552.108 is not other law that makes

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the information we have marked under 552.022(a)(17) of the Government Code may not be withheld under section 552.108. We note that the court-filed information contains information subject to section 552.130 of the Government Code.² As section 552.130 can make information confidential for purposes of section 552.022, we will consider this exception for the information subject to 552.022. We will also consider your claim under section 552.108 for the information that is not subject to section 552.022.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note that the submitted information includes a statutory warning and notice of suspension. Because copies of these documents, which we have marked, have been provided to the arrestee, we find that their release will not interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code § 552.108(a)(1)*. Therefore, the department may not withhold these documents under section 552.108(a)(1). You state that the remaining information relates to an open and pending criminal investigation and prosecution. Based upon your representation and our review, we conclude that the release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (*per curiam*) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the statutory warning, notice of suspension, and basic information, the department may withhold the remaining information under section 552.108(a)(1).³

²The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

We note that the statutory warning and the notice of suspension, along with the court-filed document, contain information that is subject to section 552.130 of the Government Code. Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's or driver's license, title, or registration, issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). The department must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the department must release the court-filed document we have marked under section 552.022(a)(17) of the Government Code. With the exception of the statutory warning, notice of suspension, and basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the court-filed document, the statutory warning, and the notice of suspension, the department must withhold the information we have marked under section 552.130 of the Government Code.

This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 463356

Enc. Submitted documents

cc: Requestor
(w/o enclosures)