



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 7, 2012

Mr. Michael L. Dobbins  
Assistant District Attorney  
112th Judicial District  
400 South Nelson  
Fort Stockton, Texas 79735

OR2012-12338

Dear Mr. Dobbins:

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# 465713.

The District Attorney's Office for the 112th Judicial District (the "district attorney's office") received a request for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note the submitted information contains court documents subject to section 552.022 of the Government Code. Section 552.022(a)(17) 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 raise section 552.108 of the Government Code for this information, this is a discretionary exception to disclosure that may be waived and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). As such, section 552.108 does not make information confidential for the purposes of section 552.022(a)(17), and the submitted court documents may not be withheld on that basis. As you raise no additional exceptions to disclosure for the court documents, which we have marked, they must be released to the requestor.

You raise section 552.108 of the Government Code for the remaining information. Section 552.108(a)(1) 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). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to a pending criminal prosecution. Based on your representation and our review of the information, we conclude release of the information at issue would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code generally applies to the remaining information.

We note, however, the submitted information includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The Fort Stockton Police Department provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108. In addition, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Basic information must be released, even if it does not literally appear on the front page of the report. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of the DIC-24 and DIC-25 forms and basic information, the district attorney’s office may withhold the remaining information under section 552.108(a)(1).

We note the DIC-24 and DIC-25 forms contain the arrestee’s driver’s license number. 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 district attorney’s office must withhold the arrestee’s driver’s license number, which we have marked, under section 552.130 in the DIC-24 and DIC-25 forms.

In summary, the district attorney’s office must release the court documents we have marked under section 552.022(a)(17) of the Government Code. With the exception of the DIC-24 and DIC-25 forms and basic information, the district attorney’s office may withhold the remaining information under section 552.108(a)(1) of the Government Code. The district

attorney's office must withhold the information we have marked in the DIC-24 and DIC-25 forms under section 552.130 of the Government Code. Basic information and the remaining information in the DIC-24 and DIC-25 forms must be released.

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](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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/som

Ref: ID# 465713

Enc. Submitted documents

c: Requestor  
(w/o enclosures)