



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 28, 2012

Ms. Samantha Dyal
Counsel for the City of Schertz
Fulbright & Jaworski, L.L.P.
300 Convent Street, Suite 2100
San Antonio, Texas 78205-3792

OR2012-13608

Dear Ms. Dyal:

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# 463982.

The Schertz Police Department (the "department"), which you represent, received a request for six categories of information pertaining to a specified incident and a named officer. You state some of the requested information does not exist.¹ You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *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, we conclude release of most of the submitted information

¹We note the Act does not require a governmental body to disclose information that did not exist at the time the request was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex.Civ.App.—San Antonio 1978, writ dism'd), Open Records Decision No. 452 at 3 (1986).

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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is generally applicable to most of the submitted information.

We note, however, the submitted information includes a copy of a citation. Because a copy of the citation was provided to the individual who was cited, we find release of the citation will not interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). We therefore conclude the copy of the citation we have marked for release may not be withheld under section 552.108(a)(1).

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Gov't Code* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-7; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, with the exception of the marked citation and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.²

You raise section 552.130 of the Government Code for portions of the citation. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *See Gov't Code* § 552.130. We note section 552.130 does not protect the state of issuance of a driver's license. Further, we note section 552.130 protects personal privacy. In this instance, the requestor is the individual whose information is at issue. Thus, the requestor has a right of access to her motor vehicle record information under section 552.023 of the Government Code and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

In summary, with the exception of the marked citation and basic information, which you must release, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.³

²As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

³As previously noted, the requestor has a special right of access to some of the information being released in this instance. *See Gov't Code* § 552.023. However, we note the information being released includes the requestor's driver's license information and license plate number, which is generally confidential under section 552.130 of the Government Code. We note section 552.130(c) of the Government Code authorizes a governmental body to redact information protected by section 552.130(a)(1) without the necessity of requesting

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/bhf

Ref: ID# 463982

Enc. Submitted documents

c: Requestor
(w/o enclosures)

a decision under the Act. *Id.* § 552.130(c). Thus, if the department receives another request for this same information from a person who does not have such a right of access, section 552.130(c) of the Government Code authorizes the department to redact the requestor's driver's license information without seeking a ruling from this office. We also note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold a Texas license plate number under section 552.130(a)(2) without requesting a decision.