



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 10, 2012

Ms. Angela M. Deluca
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2012-14311

Dear Ms. Deluca:

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# 464497.

The City of Bryan (the "city") received a request for (1) all traffic infractions and citations issued during a specified time period, (2) all issued warrants for the same time period, (3) all booking photos and the arrest log for the same time period, and (4) a list of any other companies or individuals who have requested or received any bulk data related to criminal, traffic, or warrant information. You state you do not possess information responsive to the third and fourth categories of the request.¹ You state you have released some of the requested information. You claim portions of the submitted information are 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 representative sample of information.²

¹We note the Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d (Tex. Civ. App.—San Antonio 1978, writ dismissed).

²We 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.

Initially, we address your contention that article 15.26 of the Code of Criminal Procedure does not make the submitted affidavits maintained by the city expressly public. Article 15.26 of the Code of Criminal Procedure provides in relevant part:

The arrest warrant, and any affidavit presented to the magistrate in support of the issuance of the warrant, is public information, and beginning immediately when the warrant is executed the magistrate's clerk shall make a copy of the warrant and the affidavit available for public inspection in the clerk's office during normal business hours.

Crim. Proc. Code art. 15.26. Thus, we interpret article 15.26 of the Code of Criminal Procedure to apply only to court clerks. Accordingly, we agree that article 15.26 does not make the submitted affidavits maintained by the city expressly public. Accordingly, we will address your argument under section 552.108 for the submitted affidavits.

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 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 information contained in Exhibit C pertains to pending criminal prosecutions. Based on your representation and our review of the information, we conclude release of Exhibit C 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 applies to Exhibit C.

We note, however, 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). 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 basic information, which must be released, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code.³

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license or driver's license or permit issued by an agency of this state or another

³As our ruling is dispositive, we need not address your remaining argument for this information.

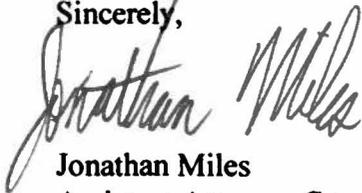
state or country is excepted from required public disclosure. Gov't Code § 552.130(a)(1). Therefore, the city must withhold the driver's license numbers in Exhibits B-1 and B-2 under section 552.130 of the Government Code. However, we find that none of the remaining information consists of motor vehicle record information subject to section 552.130. Therefore, the city may not withhold any portion of the remaining information under section 552.130 of the Government Code.

In summary, with the exception of basic information, which must be released, the city may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The city must withhold the driver's license numbers in Exhibits B-1 and B-2 under section 552.130 of the Government Code. The remaining information 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, 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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 464497

Enc. Submitted documents

c: Requestor
(w/o enclosures)