



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 22, 2012

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2012-16854

Dear Mr. Weir:

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# 472973 (COSA File No. W010250).

The City of San Antonio (the "city") received a request for information pertaining to the arrest of a named individual for a specified offense. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information contains documents that have been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Gov't Code § 552.022(a)(17). Such information must be released unless it is confidential under the Act or other law. You claim the court-filed documents are excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and, therefore, does not make information confidential under the Act. *See Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108).* Therefore, the city may not withhold the court-filed documents, which we have marked, under section 552.108. However, we note the marked court-filed documents contain information that is subject to section 552.130 of

the Government Code, which makes information confidential under the Act.¹ Therefore, we will consider the applicability of this exception to the marked court-filed documents.

We next address your claim under section 552.108 of the Government Code for the remaining information. Section 552.108 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 claiming section 552.108 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). You state the information at issue relates to an open criminal case. Based on this representation, we find that release of this 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) (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).

We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The arrestee was provided copies of these forms. 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.

Additionally, 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 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130(a)(1) of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s or driver’s license issued by an agency of this state or another state or country. Gov’t Code § 552.130(a)(1). We note the marked court-filed documents and the DIC-24 and DIC-25 forms contain a driver’s license number. The city must withhold the driver’s license number, which we have marked, in the marked court-filed documents and in the DIC-24 and DIC-25 forms under section 552.130.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, except for the marked driver's license number, which the city must withhold under section 552.130 of the Government Code, the marked court-filed documents and the DIC-24 and DIC-25 forms must be released. Except for basic information, which must be released, the city may withhold the remaining submitted information under section 552.108(a)(1) 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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 472973

Enc. Submitted documents

c: Requestor
(w/o enclosures)