



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 27, 2012

Ms. Evelyn W. Njuguna
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2012-18990

Dear Ms. Njuguna:

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# 471934 (Houston OR No. 12-5294).

The Houston Police Department (the "department") received a request for investigation materials, including mugshots, related to a specific vice investigation involving named individuals. You state you will release basic information to the requestor. You claim the remaining 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.

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 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 responsive information pertains to a case that concluded with the conviction of one of the named individuals, as well as another individual. However, you assert the investigation involving the convicted individuals is so intertwined with the pending investigations and prosecutions of other suspects involved in the case that it cannot easily be

separated. Based upon these representations and our review, we conclude the release of the responsive 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). Thus, section 552.108(a)(1) is generally applicable to the responsive information.

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

In addition, 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 186-87; Open Records Decision No. 127 (1976)* (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state has been released, and the citations we have marked, the department may withhold the responsive information under section 552.108(a)(1) of the Government Code.¹

Lastly, we note two of the citations include the cited person's personal identification number. Section 552.130 of the Government Code excepts from disclosure information related to a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document. *See Gov't Code § 552.130(a)(3)*. The city must withhold the personal identification numbers we have marked in the citations under section 552.130 of the Government Code.²

In summary, with the exception of the marked personal identification numbers, which must be withheld under section 552.130(a)(3) of the Government Code, the city must release the citations. With the exception of basic information, the city may withhold the remaining 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.

¹As our ruling is dispositive, we did not address your other argument under section 552.101 of the Government Code.

²This office will raise section 552.130 on behalf of the governmental body, as this exception is mandatory and may not be waived. *See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n. 4 (2001)* (mandatory exceptions).

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,


Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/som

Ref: ID# 471934

Enc. Submitted documents

c: Requestor
(w/o enclosures)