



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2013

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-01453

Dear Ms. Brown:

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# 477494.

The Plano Police Department (the "department") received a request for seven categories of records pertaining to a named individual's employment with the department. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We first note that, although you state some of the submitted information consists of representative samples, we find the submitted records are not representative of all of the information to which the requestor seeks access, including the meeting minutes pertaining to the named individual. Please be advised this open records letter ruling is applicable only to the types of information you have submitted for our review. Thus, this ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than the records you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). We therefore assume the department has released any other types of records that are responsive to the present request, to the extent such records existed when the department received the

request. If not, then the department must release any such records immediately.¹ *See id.* §§ 552.221, .301, .302; Open Records Decision No. 664 (2000).

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 claim section 552.108(a)(1) for the submitted records related to the named police officer. You indicate the officer at issue is a witness or arresting officer in pending criminal cases. You state the submitted information could be used at trial to undermine the officer’s credibility, competency to testify, and qualifications as an expert witness. You inform us the Collin County District Attorney’s Office (the “district attorney’s office”) has advised the department that release of the submitted information would interfere with the prosecution of the cases and has asked that section 552.108(a)(1) be asserted on behalf of the district attorney’s office. Based on your representations and our review, we conclude section 552.108(a)(1) is applicable to the submitted information. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. The department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

¹We note the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

²As we are able to make this determination, we need not address the department’s claim under section 552.101 of the Government Code. We further note basic information includes an arrested person’s social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a large circular flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 477494

Enc. Submitted documents

c: Requestor
(w/o enclosures)