



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 18, 2013

Ms. Linda Pemberton  
Office of the City Attorney  
City of Killeen  
P.O. Box 1329  
Killeen, Texas 76540-1329

OR2013-04420

Dear Ms. Pemberton:

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# 485605 (Reference No. W009969-021513).

The Killeen Police Department (the "department") received a request for information pertaining to a specified report number. You state the department has released some of the requested information. 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 includes documents signed by a magistrate, which we have marked, that have been filed with a court. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although you seek to withhold these documents under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not make information confidential for purposes of section 552.022(a)(17). Therefore, the information at issue may not be withheld under section 552.108 of the Government Code. We note the information at issue contains

information subject to section 552.130 of the Government Code, which does make information confidential for purposes of section 552.022.<sup>1</sup> Therefore, we will address the applicability of this exception to the court documents.

Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country. Gov't Code § 552.130(a)(1)-(2). Therefore, the department must withhold the information we have marked in the court-filed documents under section 552.130 of the Government Code. The remainder of the court-filed documents must be released.

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[.]" *Id.* § 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 remaining information pertains to a pending criminal case. Based on your representation and our review, we find release of the information at issue 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).

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; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must release the marked court-filed documents pursuant to section 552.022(a)(17) of the Government Code but must withhold the information we have marked in the documents under section 552.130 of Government Code. With the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

---

<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 485605

Enc. Submitted documents

c: Requestor  
(w/o enclosures)