



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 1, 2009

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2009-04230

Dear Ms. Smith:

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# 338844.

The Texas Department of Public Safety (the "department") received a request for specified arrest reports related to two named individuals. You indicate that some of the requested information was the subject of a previous open records ruling. You also state you have released some responsive information to the requestor. 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, you indicate some of the responsive information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2007-15778 (2007). We understand the case is still active and, thus, the status of the case is unchanged from the date of the previous ruling. We therefore conclude the department may continue to rely on Open Records Letter No. 2007-15778 with respect to the information previously requested. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments for the information not previously requested and ruled upon.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, 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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the submitted information includes a notice of suspension and a statutory warning. Because these documents have been provided to the individual who was arrested, we find release of these documents will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the department may not withhold the notice of suspension and statutory warning, which we have marked, under section 552.108(a)(1). You state the remaining information relates to an ongoing criminal case and that release of the information at issue would interfere with the investigation and prosecution of this case. Based on your representation and our review, we find section 552.108(a)(1) is applicable to the remaining submitted information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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. We note the basic information described in *Houston Chronicle* does not include information subject to section 552.130 of the Government Code. Therefore, 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. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). With the exception of the marked notice of suspension, statutory warning, and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note the notice of suspension and statutory warning contain information subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130. Accordingly, the department must withhold the

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

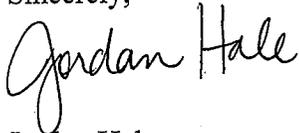
Texas driver's license numbers we have marked pursuant to section 552.130 of the Government Code.

In summary, the department may continue to rely on Open Records Letter No. 2007-15778 with respect to the information previously requested. With the exception of the marked notice of suspension, statutory warning, and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked in the notice of suspension and statutory warning pursuant to section 552.130 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 at (512) 475-2497.

Sincerely,



Jordan Hale
Assistant Attorney General
Open Records Division

JH/jb

Ref: ID# 338844

Enc. Submitted documents

cc: Requestor
(w/o enclosures)