



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 13, 2009

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2009-11335

Dear Mr. Reinwand:

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# 352082 (Arlington Ref. No. 2009-05-149).

The Arlington Police Department (the "department") received a request for information related to a specified accident. You claim that the requested 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 that most of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-08000 (2009). In that ruling, we held that the department waived its claim under section 552.108 for a portion of the submitted information. *See* Gov't Code § 552.302 (failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public); *see also* Gov't Code § 552.007 (b) (prohibiting selective disclosure of information that governmental body has voluntarily made available to any member of the public). However, we held that portions of the submitted information that were created after the receipt of the first request may be withheld under section 552.108(a)(1) of the Government Code. In addition, we held the department must withhold the information we marked under sections 552.101, 552.130 and 552.136 of the Government Code. With regard to the requested information that is identical to the information previously requested and ruled upon by this office in this prior ruling, we conclude, as we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, the department may continue to rely on Open Records Letter No. 2009-08000 as a previous determination and withhold or release the identical information in accordance with this

ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). To the extent the requested information is not encompassed by the previous ruling, we will address the submitted arguments.

Next, we note that the submitted information contains Texas Peace Officer Crash Report forms that appear to have been completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that except as provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Department of Public Safety or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* In the situation at hand, the requestor has not provided two of the three pieces of required information. Thus, the department must withhold the Texas Peace Officer Crash Report forms pursuant to section 550.065(b).

We will now address your claim under section 552.108 of the Government Code for information that was not previously ruled upon in Open Records Letter No. 2009-08000. Section 552.108(a) of the Government Code exempts 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 that the information at issue includes a statutory warning. Because this document has been provided to the individual who was arrested, we find that release of this document will not interfere with the detection, investigation, or prosecution of crime. You state that the remaining information at issue relates to an open and pending criminal case. Thus to the extent this information has not already been released in response to Open Records Letter No. 2009-08000, we conclude 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), *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). Thus, we find section 552.108(a)(1) is applicable to the remaining information.

Section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Such 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). With the exception of basic information and the statutory warning, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, to the extent any portion of the submitted information was ruled upon in Open Records Letter No. 2009-08000, the department must continue to rely on that ruling as a previous determination and withhold or release the identical information in accordance with that ruling. The department must withhold the Texas Peace Officer Crash Report forms pursuant to section 550.065(b). With the exception of basic information and the statutory warning, the department 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.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 352082

Enc. Submitted documents

c: Requestor
(w/o enclosures)