



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2011

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

OR2011-01627

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# 411883 (ORR# KARS122210).

The Plano Police Department (the "department") received a request for information pertaining to a specified incident. You state you have released some of the requested information. You also state that the department will withhold portions of the requested information based upon a previous determination for withholding information under section 552.108(a)(1) granted by the ruling in *Office of the Attorney General v. Plano Police Department*, No. GV-001919 (126th Dist. Ct., Travis County, Tex., December 18, 2000). You claim that 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.¹

Section 552.108(a)(1) of the Government Code is applicable to information whose release would interfere with a pending criminal investigation or prosecution. A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See Gov't Code* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the release of the submitted information would interfere with a pending criminal case. Based on your representation, we conclude section 552.108(a)(1) is generally

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See Open Records Decision Nos. 499 (1988), 497 (1988)*. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

applicable in this instance. *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., 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). We note, however, that the submitted information includes a statutory warning and a notice of suspension. Because copies of those documents are provided to the person who is the subject of the warning and the notice, we find that the release of the statutory warning and the notice of suspension 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 statutory warning and the notice of suspension under section 552.108(a)(1).² The rest of the submitted information may be withheld 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

²We note that the statutory warning and the notice of suspension contain the arrested person's Texas driver's license number, which the department would ordinarily be required to withhold under section 552.130 of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right of access to his client's Texas driver's license number under section 552.023 of the Government Code. *See Gov't Code* 552.023(a); Open Records Decision No. 481 at 4 (1987). We further note Open Records Decision No. 684 (2009) was issued as a previous determination to all governmental bodies, authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information from an individual other than one with a right of access under section 552.023, the department is authorized to withhold the arrestee's Texas driver's license number under section 552.130 without the necessity of requesting an attorney general decision.

Ref: ID# 411883

Enc. Submitted documents

c: Requestor
(w/o enclosures)