



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2014

Ms. Nanette Rodriguez
Deputy City Attorney
City of Temple
2 North Main, Suite 308
Temple, Texas 76501

OR2014-22186

Dear Ms. Rodriguez:

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# 545850.

The Temple Police Department (the "department") received a request for two specific reports. 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.

You raise subsection 552.108(a)(1) of the Government Code for report number 14007331. Subsection 552.108(a)(1) 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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 14007331 relates to a pending criminal investigation and release of the information would interfere with that investigation. We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The department provided a copy of these forms to the arrestee. You have not explained how releasing this information, which has already been released to the arrestee, would interfere with the detection, investigation, or prosecution

of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108. However, we find release of the remaining information in report number 14007331 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, subsection 552.108(a)(1) of the Government Code is applicable to the remaining information in report number 14007331.

You raise subsection 552.108(a)(2) of the Government Code for report number 14007333. Subsection 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming subsection 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state report number 14007333 pertains to an investigation that concluded in a result other than conviction or deferred adjudication. Therefore, we agree subsection 552.108(a)(2) is applicable to report number 14007333.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information and the DIC-24 and DIC-25 forms, the department may withhold report number 14007331 under subsection 552.108(a)(1) and report number 14007333 under subsection 552.108(a)(2) of the Government Code.

We note the DIC-24 and DIC-25 forms contain information subject to section 552.130 of the Government Code.¹ Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country. *See* Gov't Code. § 552.130(a)(1). Accordingly, the department must withhold the driver's license information we marked under section 552.130 of the Government Code.

In summary, with the exception of basic information and the DIC-24 and DIC-25 forms, the department may withhold report number 14007331 under subsection 552.108(a)(1) and report number 14007333 under subsection 552.108(a)(2) of the Government Code. 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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

department must withhold the information we marked under section 552.130 of the Government Code. The remaining information must be released.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 545850

Enc. Submitted documents

c: Requestor
(w/o enclosures)