



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 11, 2006

Mr. Charles K. Eldred  
Knight & Partners  
223 West Anderson Lane, Suite A-105  
Austin, Texas 78752

OR2006-10514

Dear Mr. Eldred:

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# 259155.

The City of Kyle (the "city"), which you represent, received a request for "all Open Records requests received by the [city] for the past year[, and] all Attorney General's Opinions requested by the [city] for the past year." You state that some responsive information will be released to the requestor. 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.

Initially, you state that some of the responsive information is subject to previous rulings from this office. See Open Records Letter Nos. 2006-00425 (2006),<sup>1</sup> 2006-02743

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<sup>1</sup>ORL 2006-00425 was issued January 12, 2006, and concluded that the city must release all of the requested information.

(2006),<sup>2</sup> 2006-04638,<sup>3</sup> and 2006-09118 (2006).<sup>4</sup> Therefore, assuming that the four criteria for a “previous determination” established by this office in Open Records Decision No. 673 (2001) have been met, we conclude that the city may rely on our previous decisions with respect to the information requested in this instance that was previously ruled upon in those decisions.<sup>5</sup> See Gov’t Code § 552.301(f); Open Records Decision No. 673 (2001). To the extent that the information requested in this instance was not the subject of these prior rulings, we will address your arguments for the information you have submitted.

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.” 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 Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal investigation. Based upon this representation, we conclude that release of the 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

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<sup>2</sup>ORL 2006-02743 was issued March 21, 2006, and concluded that the city must release all of the requested information.

<sup>3</sup>ORL 2006-04638 was issued on May 5, 2006, and concluded that the city police department must withhold the marked information under sections 552.117 and 552.130 of the Government Code, and all remaining information must be released.

<sup>4</sup>ORL 2006-09118 was issued on August 11, 2006, and concluded that the city (1) may withhold some of the information at issue under sections 552.107(1) and 552.108(a)(1); (2) must withhold e-mail addresses of members of the public under section 552.137; and (3) must release the remaining submitted information

<sup>5</sup>The four criteria for this type of “previous determination” are 1) the records or information at issue are precisely the same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D) of the Government Code; 2) the governmental body which received the request for the records or information is the same governmental body that previously requested and received a ruling from the attorney general; 3) the attorney general’s prior ruling concluded that the precise records or information are or are not excepted from disclosure under the Act; and 4) the law, facts, and circumstances on which the prior attorney general ruling was based have not changed since the issuance of the ruling. See Open Records Decision No. 673 (2001).

present in active cases). Therefore, section 552.108(a)(1) is applicable to the information at issue.

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). Basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d 177. Thus, with the exception of the basic front page offense and arrest information, the city may withhold the submitted information from disclosure based on section 552.108(a)(1).

The social security number of an arrestee is excepted under section 552.147 of the Government Code. Section 552.147 provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the city must withhold the social security number that we have marked under section 552.147.<sup>6</sup>

In summary, the city may rely on our previous decisions in Open Records Letter Nos. 2006-00425, 2006-02743, 2006-04638, and 2006-09118 with respect to the information requested in this instance that was previously ruled upon in those decisions. With the exception of the basic front-page offense and arrest information, the city may withhold the submitted information under section 552.108(a)(1); however, the city must withhold the social security number that we have marked pursuant to section 552.147.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general

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<sup>6</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

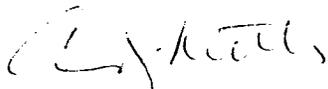
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/eb

Mr. Charles K. Eldred - Page 5

Ref: ID# 259155

Enc. Submitted documents

c: Ms. Sherry Anderson  
4041 Mather  
Kyle, Texas 78640  
(w/o enclosures)