



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2009

Ms. Evelyn Njuguna
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2009-12693

Dear Ms. Njuguna:

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# 354694.

The City of Houston (the "city") received a request for the records of citations from fire inspections for a specified time period. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

You claim the highlighted information is subject to section 552.108(a)(1) of the Government Code. This section 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

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.

interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The arson investigation division of a fire department is considered a law enforcement unit for purposes of section 552.108. *See* Open Records Decision No. 127 at 8 (1976).

You state, and have provided a letter from an investigator with the fire and arson division confirming, that the information you have highlighted relates to an ongoing criminal investigation being conducted by the city's fire department. Based on these representations and our review of the information at issue, we conclude that the release of these records 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, section 552.108(a)(1) is applicable to the information you have highlighted.

However, section 552.108 of the Government Code 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*. *See* 531 S.W.2d at 186-187; ORD 127 (summarizing types of information considered to be basic information). Accordingly, except for basic information, the information you have highlighted may be withheld under section 552.108(a)(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. *See* Gov't Code § 552.130. We note that section 552.130 does not encompass motor vehicle record information of other states. To the extent the representative sample of information we have marked consists of motor vehicle record information issued by an agency of the State of Texas, the city must withhold it under section 552.130 of the Government Code. The city may not withhold any information that does not pertain to motor vehicle record information issued by an agency of the State of Texas under section 552.130.

In summary, with the exception of basic information, the city may withhold the information you have highlighted under section 552.108(a)(1) of the Government Code. To the extent the representative sample of information we have marked consists of motor vehicle record information issued by an agency of the State of Texas, the city must withhold it under section 552.130 of the Government Code. The city may not withhold any information that does not pertain to motor vehicle record information issued by an agency of the State of Texas under section 552.130. 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.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,



Greg Henderson
Assistant Attorney General
Open Records Division

GH/rl

Ref: ID# 354694

Enc. Submitted documents

c: Requestor
(w/o enclosures)