



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 23, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street Third Floor  
Fort Worth, Texas 76102

OR2009-16682

Dear Mr. Phillips:

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# 366951 (PIR No. 0259-10).

The City of Fort Worth (the "city") received a request for information relating to a specified incident. You inform us that some of the requested information has been released. You state that social security numbers and Texas motor vehicle record information have been redacted from other responsive information pursuant to section 552.147 of the Government Code and previous determinations issued to the city under section 552.130 of the Government Code.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We first note that the submitted information includes court documents. Section 552.022 of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although the department seeks to withhold the documents that are subject to section 552.022(a)(17) under section 552.108 of the

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<sup>1</sup>See Gov't Code § 552.147(b) (governmental body may redact living person's social security number from public release without necessity of requesting decision by attorney general under Act); Open Records Decision No. 673 (2001) (previous determinations).

Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally); 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the court documents we have marked may not be withheld under section 552.108. Although you also claim sections 552.101, 552.136, and 552.130 of the Government Code, which are confidentiality provisions for the purposes of section 552.022(a)(17), the court documents do not contain any information that falls within the scope of those exceptions. Therefore, the court documents we have marked must be released pursuant to section 552.022(a)(17) of the Government Code.

Next, we address your claim under section 552.108 for the rest of the submitted information. Section 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the rest of the submitted information is related to a pending criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the remaining information. *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).

We note, however, that the remaining 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). Thus, the city may not withhold those documents under section 552.108(a)(1). Moreover, those documents do not contain any information that is excepted from disclosure under section 552.101, section 552.130, or section 552.136. Therefore, the statutory warning and the notice of suspension, which we have marked, must be released.

We also note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The city must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. Except for the statutory warning and the notice of

suspension, the city may withhold the rest of the submitted information under section 552.108(a)(1).

In summary: (1) the marked court documents must be released pursuant to section 552.022(a)(17) of the Government Code; (2) the marked statutory warning and notice of suspension must be released; and (3) the city may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c). As we are able to make these determinations, we need not address the other exceptions you claim.

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](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,



James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 366951

Enc: Submitted information

c: Requestor  
(w/o enclosures)