



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 11, 2010

Mr. R. Kinley Hegglund, Jr.
Assistant City Attorney II
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2010-03704

Dear Mr. Hegglund:

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# 377937 (City ID# 39).

The Wichita Falls 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 claim the submitted information is 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 information.

Initially, we note the submitted information contains documents filed with a court, which are expressly public under section 552.022(a)(17) of the Government Code. *See* Gov't Code 552.022(a)(17). Such information must be released unless it is expressly confidential under "other law." *Id.* You claim the court-filed documents are excepted from disclosure under section 552.108(a)(1) of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the department may not withhold the court-filed documents, which we have marked, under section 552.108 of the Government Code. However, we note that section 552.130 is "other law" for purposes of section 552.022.

Accordingly, we will address your argument under this exception for the information subject to section 552.022.

Section 552.130 of the Government Code 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[.]” Gov’t Code § 552.130. Accordingly, the department must withhold the Texas motor vehicle record information we have marked in the marked court-filed documents pursuant to section 552.130 of the Government Code.¹ As you have raised no other exceptions to disclosure of the remaining information in the marked court-filed documents, this information must be released pursuant to section 552.022(a)(17) of the Government Code.

You claim that the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) excepts “[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, and provide a letter from the Wichita County District Attorney’s Office reflecting, that the remaining information is related to a pending criminal case. Based on these representations, we conclude that section 552.108(a)(1) is generally applicable to the remaining information. *See Houston Chronicle Pub’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.–Houston [14th Dist.] 1975), writ ref’d. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note that 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). 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. The department 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. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). With the exception of the basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

¹We note that this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies, which authorizes withholding of ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

²As our ruling is dispositive, we need not address your remaining argument against disclosure of portions of this information.

In summary, the department must withhold information we have marked in the marked court-filed documents under section 552.130 of the Government Code and release the remaining information in the court-filed documents pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the department may withhold the remaining information 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 377937

Enc. Submitted documents

cc: Requestor
(w/o enclosures)