



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 12, 2010

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

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OR2010-05096

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# 375565 (City of Fort Worth PIR Nos. 1820-10 and 1900-10).

The City of Fort Worth (the "city") received two requests from two different requestors for a specified incident report. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 . . . 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(a)(1) 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 have submitted an affidavit from the Tarrant County District Attorney's Office stating the submitted report should be withheld because it relates to a pending criminal prosecution. Based on this representation, we conclude the release of this 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

present in active cases). Therefore, section 552.108(a)(1) is generally applicable to the submitted report.

However, section 552.108 does not except from required public 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 information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The city must generally release basic information, including a detailed description of the offense and the names of the arresting and investigating officers, even if the information does not literally appear on the front page of an offense or arrest report. See ORD 127 at 3-4.

You seek to withhold the name and identification number of an undercover police officer from the basic information. Section 552.151 of the Government Code provides as follows:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.151. You represent to this office that the release of the name and identification number of the undercover police officer at issue would cause the officer to face a substantial threat of physical harm. Based on your representation, we find the city has demonstrated that release of the information at issue would subject the officer to a substantial threat of physical harm. We therefore conclude that the city must withhold the name and identification number of the undercover police officer, which you have marked, under section 552.151.

In summary, with the exception of basic information, the city may withhold the submitted report under section 552.108(a)(1) of the Government Code. However, within the basic information, the city must withhold the name and identification number of the undercover police officer, which you have marked, pursuant to section 552.151 of the Government Code. The remaining basic 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,

A handwritten signature in black ink, appearing to read "Jennifer Burnett", with a long, sweeping underline.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 375565

Enc. Submitted documents

c: Requestors
(w/o enclosures)