



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2011

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

OR2011-01771

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# 407869 (Fort Worth PIR No. W004900).

The City of Fort Worth (the "city") received a request for a specified incident report. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). 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.

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 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 (the "district attorney") representing the submitted information pertains to a criminal prosecution that resulted in a conviction and a sentence of probation for thirty-six months. The district attorney states in

the event the defendant violates the terms and conditions of his probation, he could be sentenced according to the court's ruling. Further, the district attorney states if the defendant receives any jail time, he will not have yet exhausted his state and/or federal post conviction remedies. Based on the affidavit, we understand you to argue the criminal prosecution at issue is still pending because the defendant might appeal a possible sentence. However, we note that a mere chance of an appeal is insufficient to demonstrate that the release of the submitted information will interfere with law enforcement efforts. Thus, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code. As you raise no further exceptions to the disclosure of the submitted information, the city must release it.

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 407869

Enc. Submitted documents

c: Requestor
(w/o enclosures)