



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 4, 2013

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2013-00199

Dear Mr. Cumbie:

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# 475741 (CFW Request No. W020933).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You state the city has released some of the requested information, including the submitted accident report. *See* Transp. Code §550.065(c)(4) (providing for release of accident report if requestor provides two of following three pieces of information: date of accident; name of any person involved in accident; and specific location of accident). You claim 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.

The submitted information contains court-filed documents that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides the following:

Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). Although you assert this information is excepted from disclosure under section 552.108, this section is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, the city may not withhold the information subject to section 552.022 under section 552.108. However, section 552.130 of the Government Code makes information confidential under the Act.¹ Therefore, we will consider the applicability of this section to the information subject to section 552.022. However, we will first address your arguments to withhold the remaining information at issue.

You assert the remaining information is excepted from release under section 552.108 of the Government Code. Section 552.108(a)(1) excepts from disclosure information 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). Generally, 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* Gov't Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the submitted information includes a notice of suspension/temporary driving permit and a statutory warning. Because copies of these documents, which we have marked, have been provided to the individual who was cited, we find their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the city may not withhold these documents under section 552.108(a)(1). You have submitted an affidavit from the Chief of the Misdemeanor Division of the Tarrant County District Attorney's Office objecting to the release of the requested information because it pertains to a pending prosecution. Based on this representation, we conclude release of the remaining 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. Thus, the city must release the basic

¹The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. *See* Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); *see, e.g.,* Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

front-page offense and arrest information, the notice of suspension/temporary driving permit we have marked, and the statutory warning we have marked, but it may withhold the remaining information at issue under section 552.108(a)(1).²

Section 552.130(a) of the Government Code provides in part the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country [or]
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country[.]

Gov't Code § 552.130(a)(1)-(2). The city must withhold the motor vehicle record information we have marked under section 552.130 in the documents subject to section 552.022, the marked suspension/temporary driving permit, and the marked statutory warning.

To conclude, the city must release the information marked under section 552.022 of the Government Code, the marked suspension/temporary driving permit, the marked statutory warning, and the basic information in the remaining documents; however, in releasing this information, the city must withhold the information we have marked under section 552.130 of the Government Code. The city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

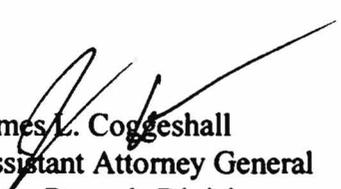
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²This ruling does not affect an individual's right of access to emergency medical service records from the emergency medical services personnel who provided treatment under chapter 773 of the Health and Safety Code. See Health & Safety Code §§ 773.092-773.093; cf. *Abbott v. Tex. State Bd. of Pharmacy*, No. 03-11-00481-CV, 2012 WL 5974080 (Tex. App.—Austin Nov. 21, 2012, no pet.) (Medical Practice Act, subtitle B of title 3 of the Occupations Code, does not provide patient general right of access to his or her medical records from governmental body responding to request for information under Public Information Act).

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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 475741

Enc. Submitted documents

c: Requestor
(w/o enclosures)