



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 8, 2013

Ms. Rachel L. Lindsay
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2013-05561

Dear Ms. Lindsay:

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# 484022.

The Town of Flower Mound (the "town"), which you represent, received a request for records related to five specified dates involving the requestor and a named individual at a particular location and a second request from a different requestor for a specified case. You state the town has released some responsive information to the first requestor, but you claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 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).

We note case number 13003107 includes a citation. Because a copy of the citation was provided to the individual who was cited, we find release of the citation will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). We therefore conclude the town may not withhold the citation under section 552.108(a)(1).

You state the remaining information in case number 13003107 pertains to an open and pending criminal case. Based on your representation, we find the release of the information at issue 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).

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

You state incident report number 10015169 relates to a criminal case that was closed and in which no further action will be taken. Thus, incident report number 10015169 deals with the detection, investigation, or prosecution of crime in relation to a closed investigation that you state did not result in conviction or deferred adjudication.

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Basic front-page information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the marked citation and basic information, the town may withhold case number 13003107 under section 552.108(a)(1) of the Government Code. Except for basic information, the town may withhold incident report number 10015169 under section 552.108(a)(2) of the Government Code.

We note the citation contains information that is subject to section 552.130 of the Government Code.¹ Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, registration, or a personal identification document issued by a Texas agency. *See* Gov’t Code § 552.130(a). However, section 552.130 protects personal privacy. Accordingly, the first requestor has a right of access to her own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); *see also* Open Records

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470(1987).

Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Upon review, we determine the town must withhold the information we have marked in the citation from the second requestor under section 552.130 of the Government Code.

In summary, with the exception of the citation and basic information, the town may withhold case number 13003107 under section 552.108(a)(1) of the Government Code. Except for basic information, the town may withhold incident report number 10015169 under section 552.108(a)(2) of the Government Code. In releasing the citation and basic information, the town must withhold the information we have marked in the citation from the second requestor under section 552.130 of the Government Code.²

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 484022

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

²As our ruling is dispositive, we do not address your remaining arguments.