



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2014

Ms. Donna L. Johnson
Counsel for the City of Stafford
Olson & Olson, LLP
2727 Allen Parkway, Suite 600
Houston, Texas 77019-2133

OR2014-07302

Dear Ms. Johnson:

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# 521347 (City Reference Nos. COS14-005, COS14-006, COS14-007).

The City of Stafford (the "city"), which you represent, received two requests from one requestor (ref. COS14-005, COS14-006; the "first requestor") and a third request from another requestor (ref. COS14-007; the "second requestor") for information pertaining to a specified incident and call histories at a specified address for a specified period of time. The city states it is withholding social security numbers pursuant to section 552.147 of the Government Code, unless the requestor at issue has a right of access to that information under section 552.023 of the Government Code.¹ The city also states it has released some of the requested information, but claims the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

¹See Gov't Code § 552.147(b) (governmental body may redact living person's social security number from public release without necessity of requesting decision from this office under the Act); *see also id.* § 552.023 ("[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

Section 552.108 of the Government Code provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) 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;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1)-(2), (b)(1). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. A governmental body claiming section 552.108(a)(1) or 552.108(b)(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 the information you have marked under subsections 552.108(a)(1) and 552.108(b)(1) includes a citation. Because a copy of the citation has been 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), (b)(1). Therefore, the city may not withhold the citation under section 552.108(a)(1) or 552.108(b)(1). You have submitted correspondence from the Fort Bend County District Attorney's Office objecting to release of the remaining information you have marked under section 552.108(a)(1) because it relates to a pending criminal investigation and 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) (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). Therefore, we agree section 552.108(a)(1) is applicable to this information.²

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You assert the remaining information pertains to cases that concluded in results other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to the remaining information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. Thus, with the exception of the submitted citation and the basic front-page offense and arrest information, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code and the remaining information under section 552.108(a)(2) of the Government Code.³

Section 552.130(a) of the Government Code provides 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;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

Gov't Code § 552.130(a). The submitted citation contains motor vehicle record information pertaining to the first requestor. The first requestor has a right of access to his own motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a); ORD No. 481 at 4. However, the city must withhold this information, which

²As our ruling is dispositive, we do not address your other argument to withhold this information.

³As our ruling is dispositive, we do not address your other arguments to withhold this information.

we have marked, from the second requestor pursuant to section 552.130(a) of the Government Code.⁴

To conclude, with the exception of the submitted citation and basic information, the city may withhold the information you have marked under section 552.108(a)(1) of the Government Code and the remaining information under section 55.108(a)(2) of the Government Code. However, in releasing the submitted citation, the city must withhold we have marked under section 552.130 of the Government Code from the second requestor the information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to 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# 521347

Enc. Submitted documents

c: Two Requestors
(w/o enclosures)

⁴We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See *id.* § 552.130(d), (e).