



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 1, 2014

Mr. Matthew C. G. Boyle
Counsel for City of Colleyville
Boyle & Lowry, L.L.P.
4201 Wingren Drive, Suite 108
Irving, Texas 75062-2763

OR2014-07333

Dear Mr. Boyle:

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# 522223.

The Colleyville Police Department (the "department"), which you represent, received two requests from different requestors for information pertaining to a specified incident. You state the department is providing the requestors with some of the requested information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The submitted search warrant that was signed by a judge is subject to section 552.022(a)(17) and may not be withheld unless it is confidential under the Act or other law. Although you seek to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and does

¹We note that, although you raise section 552.101 of the Government Code, you make no argument to support this exception. Therefore, we presume you have withdrawn your claim this exception applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

not make information confidential under the Act. *See* Open Records Decision No. 177 at 3 (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 search warrant, which we have marked, may not be withheld under section 552.108. However, you also raise section 552.130 of the Government Code, which makes information confidential under the Act. Thus, we will address the applicability of section 552.130 to the search warrant. Additionally, we will address your argument under section 552.108 for the remaining information that is not subject to section 552.022(a)(17).

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]”² Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue pertains to a pending criminal investigation and prosecution by the Tarrant County District Attorney’s Office, which objects to the release of the information at issue. Based upon your representation and our review, we conclude 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

We note, 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*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold the information that is not subject to section 552.022(a)(17) under section 552.108(a)(1).³

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s or driver’s license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov’t Code § 552.130(a). We conclude the department must withhold

²Although you do not specifically cite to section 552.108(a)(1) of the Government Code, we understand you to raise this section based on your arguments.

³As our ruling is dispositive, we need not address your remaining argument under section 552.130 of the Government Code for this information, except to note that basic information described in *Houston Chronicle* does not include information subject to section 552.130.

the information we have marked within the information that is subject to section 552.022(a)(17) of the Government Code under section 552.130.⁴

In summary, with the exception of the information we have marked that must be withheld under section 552.130 of the Government Code, the department must release the search warrant we have marked under section 552.022(a)(17) of the Government Code. With the exception of the basic information, which must be released, the department 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.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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 522223

Enc. Submitted documents

c: 2 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. 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).