



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2010

Ms. Jessica Sangsvang  
Assistant City Attorney  
City of Fort Worth, Texas  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2010-09391

Dear Ms. Sangsvang:

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# 384063 (Fort Worth PIR No. W000131).

The Fort Worth Police Department (the "department") received a request for records involving the death of a named individual in 2008 and internal memoranda from September 2008 to April 1, 2010 regarding this individual's death. You claim Exhibit C is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes a search warrant, magistrate warning, and election of counsel form that have been signed by a magistrate. Information filed with a court is generally a matter of public record and may not be withheld from disclosure unless confidential under "other law." *See* Gov't Code § 552.022(a)(17); *see also Star Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992). Although you raise section 552.108 of the Government Code for this information, section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" that makes court records confidential for the purposes of section 552.022. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (governmental body may waive statutory predecessor to section 552.108). Thus, the search warrant, magistrate warning, and election of counsel form may not be withheld under section 552.108 of the Government Code. As you raise no further exceptions to disclosure of these documents, they must be released.

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide an affidavit from a detective with the department asserting, Exhibit C relates to a pending criminal investigation. Based on these representations and our review, we find the release of the remaining information in Exhibit C 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold the remaining information in Exhibit C under section 552.108(a)(1).

In summary, the department must release the search warrant, magistrate warning, and election of counsel form under section 552.022(a)(17) of the Government Code. With the exception of basic information, the department may withhold the remaining information in Exhibit C 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](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,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 384063

Enc. Submitted documents

c: Requestor  
(w/o enclosures)