



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 9, 2010

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

OR2010-12027

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# 390057 (PIR Nos. W001183, W001255, and W001296).

The City of Fort Worth (the "city") received three requests for information related to a fatal automobile accident. You state that some responsive information will be released. You also state the city has redacted social security numbers pursuant to section 552.147 of the Government Code and Texas motor vehicle record information pursuant to previous determinations issued to the city under section 552.130 of the Government Code.¹ *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2001) (previous determinations). You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also considered comments submitted by one of the requestors. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note one of the requestors objects to the supporting affidavit submitted by the city's police department, asserting that the affidavit does not comport with the Texas Rules of Evidence. However, the Texas Rules of Evidence do not govern the open records ruling

¹We note that section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

process. *See id.* § 301(e)(1)(A) (requiring governmental body to submit to attorney general “written comments stating the reasons why the stated exceptions apply that would allow information to be withheld”); Open Records Decision Nos. 677 at 6 (2002) (governmental body in open records ruling process generally carries burden of demonstrating applicability of claimed exception), 363 (1983) (discussing governmental body’s burden under Act to establish exception), 150 at 1 (1977) (same). Accordingly, we will address the city’s arguments.

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision” and encompasses information made confidential by statute. Gov’t Code § 552.101. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. *See* Transp. Code § 550.065. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). While two of the requestors have provided the city with at least two of the three requisite pieces of information specified by the statute, the third requestor has not. Accordingly, the city must release the CR-3 accident report form to the requestors in request numbers W001183 and W001255 pursuant to section 550.065(c)(4) of the Transportation Code; however, the city must withhold the CR-3 accident report form from the requestor in request number W001296 under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Next, we address your claim under section 552.108 of the Government Code for the remaining information. Section 552.108(a)(1) 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). Generally, 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). You state, and provide an affidavit from the city police department confirming, that the remaining information relates to an open criminal case. Based upon these representations and our review, we conclude that the 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), *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). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information

refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-8; see also Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the city may withhold the remaining information under section 552.108(a)(1).

In summary, the city must release the CR-3 accident report form to the requestors in request numbers W001183 and W001255 pursuant to section 550.065(c)(4) of the Transportation Code; however, the city must withhold the CR-3 accident report form from the requestor in request number W001296 under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. With the exception of basic information that must be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we do not address your remaining claims.

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# 390057

Enc. Submitted documents

c: Three Requestors
(w/o enclosures)