



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 22, 2010

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2010-17612

Dear Ms. Middlebrooks:

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# 401152 (DPD #2010-8406).

The City of Dallas (the "city") received a request for the following categories of information: the personnel records of two named individuals; records relating to three specified incidents of alleged animal cruelty, the first in September of 2010, the second in August of 2010, and the third in 2009; and records related to any complaints lodged against the named individuals for animal cruelty. You claim the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, it appears some of the requested information may be the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-16188 (2010). In that decision, we ruled the city may withhold the submitted information under section 552.108 of the Government Code. Accordingly, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude that, as we have no indication that the law, facts, and

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records you seek to withhold. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

circumstances on which the prior ruling was based have changed, the city may continue to rely on that ruling as a previous determination and withhold the information in accordance with Open Records Letter No. 2010-16188. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not subject to Open Records Letter No. 2010-16188, we will address your arguments against disclosure.

We next note you submitted a representative sample of information related to the August, 2010 investigation of animal cruelty, but you did not submit any information responsive to the other categories of requested information, including the personnel files and the other two specified incidents of animal cruelty. We assume that, to the extent this information existed when the city received the request for information, you have released it to the requestor. If not, then you must do so at this time. *See* Gov't Code §§ 552.006, 552.301, 552.302; Open Records Decision No. 664 (2000).

You assert some of the submitted information is excepted under section 552.108 of the Government Code. 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[.]” A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked relates to a pending criminal investigation. 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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*. Thus, with the exception of the basic front-page offense and arrest information, the city may withhold the information you have marked under section 552.108(a)(1).²

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is

²As we are able to resolve this matter under section 552.108, we do not address your other arguments to withhold this information.

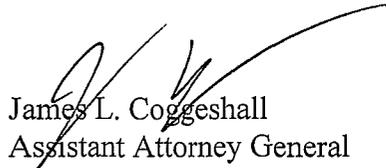
excepted from public release. Gov't Code § 552.130(a)(1), (2). We agree the city must withhold the Texas motor vehicle record information you have marked under section 552.130.³

To conclude, to the extent the requested information is identical to the information at issue in Open Records Letter No. 2010-16188, the city may continue to withhold the information in accordance with that prior ruling. With the exception of basic information, the city may withhold the information marked under section 552.108(a)(1) of the Government Code. The city must withhold the information marked under section 552.130 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tp

Ref: ID# 401152

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.