



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 8, 2010

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

OR2010-18422

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# 407162 (FW PIR No. W004812).

The City of Fort Worth (the "city") received a request for information pertaining to a specified accident. You state the city has redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). Further, you state you have redacted social security numbers under section 552.147 of the Government Code.¹ You claim 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.

Initially, we note the submitted information includes a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) states that, except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *Id.* § 550.065(b).

¹Section 552.147(b) of the Government Code 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.

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) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more of the items of information specified by the statute. *Id.* In this instance, the requestor has provided the city with two of the specified items of information. Accordingly, the city must release the submitted CR-3 accident report form in its entirety pursuant to chapter 550 of the Transportation Code.

Next, we note the submitted information includes a magistrate warning and an 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 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.

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).

We note the submitted information includes a statutory warning and a notice of suspension. Because copies of the warning and notice have been provided to the arrestee, we find that their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the city may not withhold the statutory warning or the notice of suspension under section 552.108(a)(1).

You state, and provide an affidavit from the Tarrant County Criminal District Attorney's office confirming, that the remaining information relates to an open and pending criminal investigation and prosecution. Based upon your representation, the submitted affidavit, 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) (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 remaining information.²

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 the statutory warning, notice of suspension, and basic information, the city may withhold the remaining information under section 552.108(a)(1).

We note that the statutory warning contains information that is subject to section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1). Therefore, the city must withhold the Texas driver's license number in the statutory warning under section 552.130 of the Government Code.

In summary, the city must release the submitted CR-3 accident report form in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. The submitted the magistrate warning and election of counsel form must be released pursuant to section 552.022(a)(17) of the Government Code. With the exception of the statutory warning, notice of suspension, and basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the statutory warning, the city must withhold the Texas driver's license 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

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,

A handwritten signature in cursive script that reads "Paige Lay". The signature is written in black ink and is positioned above the typed name.

Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 407162

Enc. Submitted documents

cc: Requestor
(w/o enclosures)