



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 14, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Suite 300
Fort Worth, Texas 76102

OR2010-18714

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# 403863 (Fort Worth PIR No. W004143).

The City of Fort Worth (the "city") received a request for a specified arrest report involving the requestor. You state you have 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 that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information is part of a completed investigation, which is subject to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides a completed investigation is public information unless it is confidential by other law or excepted from disclosure under section 552.108. Gov't Code § 552.022(a)(1). Section 552.103 is a discretionary exception and is not "other law" that makes information

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. Gov't Code § 552.147(b).

confidential; therefore, the department may not withhold the submitted information under this exception. *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 473 (1987) (section 552.103 may be waived). However, because section 552.022(a)(1) specifically allows for the exception of information under section 552.108, we will consider your argument under that exception.

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 claiming section 552.108 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 have submitted an affidavit from the Tarrant County District Attorney’s Office (the “district attorney”) representing the submitted information pertains to a criminal prosecution that resulted in a conviction and a sentence of probation for twenty-four months. The district attorney states in the event the defendant violates the terms and conditions of his probation, he could be sentenced according to the court’s ruling. Further, the district attorney states if the defendant receives any jail time, he will not have yet exhausted his state and/or federal post conviction remedies. Based on the affidavit, we understand you to argue the criminal prosecution at issue is still pending because the defendant might appeal a possible sentence. However, we note that a mere chance of an appeal is insufficient to demonstrate that the release of the submitted information will interfere with law enforcement efforts. Thus, the city may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code.

However, we note a portion of the submitted information is subject to section 552.130 of the Government Code.² Section 552.130 excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130(a)(2). The city must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/em

Ref: ID# 403863

Enc. Submitted documents

c: Requestor
(w/o enclosures)