



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2011

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

OR2011-00754

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# 406048 (City of Fort Worth PIR No. W004567).

The Fort Worth Police Department (the "department") received a request for all police records pertaining to a specified location for a specified time period. You state the department has redacted social security numbers pursuant to section 552.147 of the Government Code and Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued to the City of Fort Worth in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007).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 section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.²

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. Gov't Code § 552.147(b).

²We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *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 that those records contain substantially different types of information than that submitted to this office.

Initially, we note some of the submitted information does not pertain to the location specified in the request. This information, which we have indicated, is not responsive to the request. This decision does not address the public availability of the non-responsive information, and that information need not be released.

Next, you state a portion of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2010-11307 (2010). In that ruling, we determined the department may withhold the submitted photographs under section 552.108(a)(1) of the Government Code. As we have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based, we conclude the department may rely on Open Records Letter No. 2010-11307 as a previous determination and withhold the previously ruled upon photographs in accordance with that ruling. *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 information is or is not excepted from disclosure). We will address your argument against disclosure of the remaining responsive information.

Next, we note the submitted information includes magistrate warnings and election of counsel forms 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). 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. 177 (1977) (governmental body may waive statutory predecessor to section 552.108), 522 at 4 (1989) (discretionary exceptions generally). Thus, the court-filed documents we have indicated may not be withheld under section 552.108 of the Government Code. As you raise no further exceptions to disclosure of the court-filed documents, they must be released.

Section 552.108(a) 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: (1) 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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). In this instance, you state that the requested information relates to pending criminal investigations and prosecutions. Based upon your representations and our review, we conclude 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.

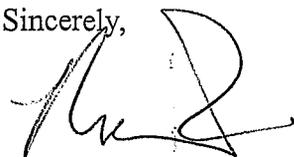
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). Therefore, with the exception of the basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department may rely on Open Records Letter No. 2010-11307 as a previous determination and withhold the previously ruled upon photographs in accordance with that ruling. The department must release the court-filed documents we have indicated under section 552.022(a)(17) of the Government Code. With the exception of the basic information, the department may withhold the remaining information 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, 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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 406048

Enc. Submitted documents

cc: Requestor
(w/o enclosures)