



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2011

Mr. Robert E. Hager
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Lincoln Plaza
500 North Akard
Dallas, Texas 75201

OR2011-07040

Dear Mr. Hager:

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# 420550 (ORR# 48697).

The City of Rowlett (the "city"), which you represent, received a request for "all reports, officer reports[,] any witness statements, [or] information about what the canine unit found" related to a specified investigation. You state the city is withholding social security numbers pursuant to 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 contains documents filed with the court. A document that has been filed with a court is expressly public under section 552.022 of the Government Code and may not be withheld unless it is confidential under other law. *See* Gov't Code § 552.022(a)(17). Although you assert this information is excepted under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived by the governmental body. *See* Open Records Decision No. 177 (1977) (governmental body may

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.

waive statutory predecessor to section 552.108). Therefore, section 552.108 does not constitute other law for purposes of section 552.022(a)(17). Accordingly, the city may not withhold the court-filed documents, which we have marked, under section 552.108. However, section 552.101 of the Government Code does constitute other law for purposes of section 552.022; therefore, we will consider whether this section requires you to withhold any of the information subject to section 552.022(a)(17), as well as the remaining information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. Section 58.007(c) provides as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Upon review, we find you have not established the investigation at issue involves alleged juvenile delinquent conduct or conduct indicating a need for supervision that occurred after September 1, 1997. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision"). Thus, we conclude you have failed to establish the entirety of the submitted information is confidential under section 58.007(c) of the Family Code, and the city may not withhold it under section 552.101 on that ground.

You assert the submitted information not subject to section 552.022(a)(17) is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a) 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.* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the submitted information includes citations. Because copies of the citations have been provided to the individual who was cited, we find release of the citation 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 citations under section 552.108(a)(1). You state the remaining information relates to a criminal investigation that is suspended, but not closed. 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. 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).

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 and the marked citations, the city may withhold the remaining information under section 552.108(a)(1).²

We note the citations contain Texas motor vehicle record information. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The city must withhold the Texas motor vehicle record information we have marked in the citations under section 552.130.³

To conclude, the city must release the information we have marked under section 552.022(a)(17) of the Government Code. The city must also release the marked citations, but it must withhold the Texas motor vehicle record information we have marked in the citations under section 552.130 of the Government Code. With the exception of basic information, the city 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.

²As our ruling is dispositive, we do not address your other arguments to withhold this information.

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 Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general opinion.

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/eb

Ref: ID# 420550

Enc. Submitted documents

c: Requestor
(w/o enclosures)