



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 1, 2011

Mr. Jason M. Rammel
Sheets & Crossfield, P.C.
For City of Hutto
309 East Main Street
Round Rock, Texas 78664

OR2011-07711

Dear Mr. Rammel:

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# 419170.

The Hutto Police Department (the "department"), which you represent, received a request for records related to a named individual. You claim the requested 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.

You state information in Exhibit C relates to a sex offender who is subject to registration under chapter 62 of the Code of Criminal Procedure. 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. Section 552.101 encompasses information protected by other statutes, such as article 62.005(b) of the Code of Criminal Procedure. Article 62.051 requires a sex offender registrant to provide the following information for the Department of Public Safety ("DPS") sex offender registration database: the person's full name; each alias; date of birth; sex; race; height; weight; eye color; hair color; social security number; driver's license number; shoe size; home address; a recent color photograph, or if possible, an electronic image of the person; a complete set of fingerprints; the type of offense the person was convicted of; the age of the victim; the date of conviction; the punishment received; an indication as to whether the person is discharged, paroled, or released on juvenile probation, community supervision, or mandatory supervision; an indication of each license, as defined by article 62.005(g), that is held or sought by the person; an indication as to whether the person is or will be employed, carrying on a vocation, or a student at a particular public or private institution of higher education in

this state or another state, and the name and address of that institution; the identification of any online identifier established or used by the person; and any other information required by DPS. *See* Crim. Proc. Code art. 62.051(c); *see also id.* art. 62.001(11) (as added by Act of June 19, 2009, 81st Legislature, R.S., ch. 755, § 2, 2009 Tex. Sess. Law Serv. 1905, 1906) (defining “online identifier”). This information is public information with the exception of the person’s social security number, driver’s license number, telephone number, the identification of any online identifier established or used by the person, all information required by DPS outside of the enumerated categories of information, and any information that would identify the victim of the offense for which the person is subject to registration. *See id.* art. 62.005(b). Accordingly, the department must withhold or release the information we have marked in Exhibit C in accordance with article 62.005(b) of the Code of Criminal Procedure.¹

Next, we address your argument under section 552.108 of the Government Code for Exhibit B. 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). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information in Exhibit B relates to a pending criminal case. Based on your representation and our review, we find that release of Exhibit B would interfere the detection, investigation, or prosecution of crime. We therefore conclude section 552.108(a)(1) is generally applicable to Exhibit B. *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).

Section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold Exhibit B under section 552.108(a)(1) of the Government Code.

Next, you claim some of the remaining information is excepted under section 552.130 of the Government Code. Section 552.130 excepts from disclosure “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code

¹As our ruling is dispositive, we need not address your argument under section 552.130 of the Government Code for this information.

§ 552.130(a)(1), (2). Accordingly, the department must withhold information you have marked under section 552.130.²

In summary, the department must withhold or release the information we have marked in Exhibit C in accordance with article 62.005(b) of the Code of Criminal Procedure. With the exception of basic information, the department may withhold Exhibit B under section 552.108(a)(1) of the Government Code. The department must withhold the information you 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.

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,



Tamara Wilcox
Assistant Attorney General
Open Records Division

TW/dls

Ref: ID# 419170

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including Texas license plate numbers under section 552.130 of the Government Code.