



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2011

Ms. Candice M. Gambrell
Assistant City Attorney
City of Houston Legal Department
P.O. Box 368
Houston, Texas 77001-0368

OR2011-10061

Dear Ms. Gambrell:

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# 426739 (ORR# 18627).

The Houston Police Department (the "department") received a request for information pertaining to the requestor's client. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.151 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert the submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. We note the submitted information includes a department Record of Vehicle Disposition/Wrecker Slip form. Because a copy of the wrecker slip form was provided to one of the arrestees at issue in the submitted incident report, we find its release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(2). Therefore, the department may not withhold the submitted wrecker slip form, which we have marked, under section 552.108(a)(2). You state the remaining information pertains to a criminal investigation of two arrestees. You state one arrestee was given deferred adjudication in connection with this matter, but charges against the other were dismissed. You also indicate the information regarding both arrestees is so intertwined that the information regarding one

arrestee cannot be easily separated from the investigative file. Based upon these representations, we conclude section 552.108(a)(2) is applicable to this information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes the names of the investigating officers. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the wrecker slip form and the basic front-page offense and arrest information, the department may withhold the submitted information under section 552.108(a)(2).¹

You seek to withhold the identifying information of undercover officers from the basic information under section 552.151 of the Government Code, which provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov't Code § 552.151. You represent release of the identifying information of the undercover officers would "cause the officers to face imminent threat of physical danger." Based on your representation, we find the department has demonstrated release of the information at issue would subject the undercover officers to a substantial threat of physical harm. Therefore, we conclude the department must withhold the identifying information of the undercover officers you have marked under section 552.151.

We note the submitted wrecker slip form contains motor vehicle record information that is excepted from disclosure under section 552.130 of the Government Code.² Section 552.130(a) provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;

¹As our ruling is dispositive, we do not address your other argument to withhold this information.

²The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body. See Open Records Decision Nos. 481 at 2 (1987), 480 at 5 (1987); see, e.g., Open Records Decision No. 470 at 2 (1987) (because release of confidential information could impair rights of third parties and because improper release constitutes a misdemeanor, attorney general will raise predecessor statute of section 552.101 on behalf of governmental bodies).

(2) a motor vehicle title or registration issued by an agency of this state or another state or country; or

(3) a personal identification document issued by an agency of this state or another state or country or a local agency authorized to issue an identification document.

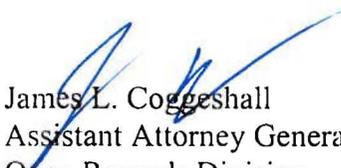
Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). The department must withhold the motor vehicle record information we have marked in the submitted wrecker slip form under section 552.130.³

To conclude, with the exception of the marked wrecker slip form and basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. However, in releasing the wrecker slip form and basic information, the department must withhold the information we have marked under section 552.130 of the Government Code and the information you have marked under section 552.151 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

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 and license plate numbers under section 552.130, without the necessity of requesting an attorney general opinion.

Ref: ID# 426739

Enc. Submitted documents

c: Requestor
(w/o enclosures)