



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 9, 2011

Ms. Jessica Sangsvang  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2011-11486

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# 426514 (Fort Worth PIR No. W009011-051911).

The City of Fort Worth (the "city") received a request for report number 11-049683. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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). 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted report is the subject of a criminal investigation that is open and pending. Based on your representations and our review, we conclude the release of the submitted information at this time 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 submitted 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information that must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

We note, however, that the requestor is with the Fort Worth Independent School District and states he is seeking disclosure of the report at issue pursuant to intergovernmental transfer. The interagency transfer doctrine provides that information may be transferred between governmental bodies without violating its confidential character on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. See Attorney General Opinion No. GA-0055 (2003); Open Records Decision Nos. 680 at 7 (2003), 667 at 3-4 (2000). However, an interagency transfer of information is not permissible where the applicable statute enumerates the specific entities to which information encompassed by the statute may be disclosed, and the enumerated entities do not include the requesting governmental body. See Open Records Decision Nos. 655 at 8-9, 516 at 4-5 (1989), 490 at 2 (1988); see also Attorney General Opinion GA-0055.

Section 552.108 is not a confidentiality statute that enumerates specific entities to which release of the confidential information is authorized. Thus, pursuant to the intergovernmental transfer doctrine, the city has the discretion to release the information subject to section 552.108 to the requestor. You also contend a portion of the submitted information that is excepted pursuant to section 552.108 is protected by common-law privacy. However, we note common-law privacy, like section 552.108, is not a confidentiality statute that enumerates specific entities to which release of the confidential information is authorized. Furthermore, we note that release pursuant to the interagency transfer doctrine does not constitute a release of information to the public for the purposes of section 552.007 of the Act. See, e.g., Attorney General Opinions H-917 at 1 (1976), H-242 at 4 (1974); see also Gov’t Code §§ 552.007, .352. Thus, the city does not waive its interests in withholding this information by exercising its discretion under the interagency transfer doctrine. However, we note that you have redacted driver’s license numbers from the submitted information under section 552.130 of the Government Code pursuant to Open

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your arguments under section 552.101 of the Government Code in conjunction with common-law privacy.

Records Decision No. 684 (2009).<sup>2</sup> Section 552.130 has its own access provision governing release of information. *See* Gov't Code § 552.130(b). Consequently, the information you redacted that is subject to section 552.130 must be withheld if the city chooses to release the submitted information pursuant to the interagency transfer doctrine. The city has the discretion to release the remaining submitted information to this requestor under the interagency transfer doctrine. However, should the city choose not to exercise its discretion under the interagency transfer doctrine, then, with the exception of basic information, the city may withhold the submitted 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](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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/agn

Ref: ID# 426514

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130, without the necessity of requesting an attorney general decision.