



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 14, 2011

Mr. Charles H. Weir
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2011-13255

Dear Mr. Weir:

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# 434584 (COSA File No. W002809).

The City of San Antonio (the "city") received a request for a specified incident report. You state the city will release the CR-3 accident report. *See* Transp. Code § 550.065(c)(4) (governmental body must release accident report to a person who provides two of the following three items of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident). You also state the city will release the notice of suspension and the statutory warning with redactions under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009).¹ You claim the remaining 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 information.

¹Open 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 and a copy of a Texas driver's license under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, section 552.130 was amended to allow a governmental body to redact the information described in subsections 552.130(a)(1) and 552.130(a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Open Records Decision No. 684 was superseded on September 1, 2011 by the statutory amendments to section 552.130 of the Government Code. Thus, a governmental body may only redact information subject to subsections 552.130(a)(1) and 552.130(a)(3) in accordance with section 552.130, not Open Records Decision No. 684.

Initially, we note the submitted information includes court documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of “information that is also contained in a public court record,” unless the information is expressly confidential under other law. Gov’t Code § 552.022(a)(17). We have marked the documents subject to section 552.022(a)(17). Although you seek to withhold these documents under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body’s interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov’t Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the marked court documents may not be withheld under section 552.108. However, because information subject to section 552.022(a)(17) may be withheld under section 552.130 of the Government Code, we will consider the applicability of this exception to the court-filed documents.²

You seek to withhold the remaining information under section 552.108 of the Government Code. 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 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 that the remaining information relates to an open criminal investigation. Based upon your representation and our review, we conclude that section 552.108(a)(1) is generally applicable in this instance. *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 curium*, 536 S.W.2d 559 (Tex. 1976).

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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

Finally, section 552.130(a)(1) of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg.,

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)). The city must withhold the information we have marked under section 552.130 in the court documents.

In summary, except for the information we have marked under section 552.130 of the Government Code, the marked court documents must be released. Except for basic information, which must be released, 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.

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 H. Holland
Assistant Attorney General
Open Records Division

THH/em

Ref: ID# 434584

Enc. Submitted documents

c: Requestor
(w/o enclosures)