



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 3, 2012

Mr. Tyler F. Wallach
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street
Fort Worth, Texas 76102

OR2012-00046

Dear Mr. Wallach:

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# 442226 (ORR# W012685).

The City of Fort Worth (the "city") received a request for a specified offense report. You state the city has redacted the marked Texas motor vehicle record information in the submitted documents under section 552.130 of the Government Code pursuant to section 552.130(c) and the previous determination issued to the city in Open Records Letter No. 2007-00198 (2007).¹ You claim the submitted information is excepted from disclosure

¹Open Records Letter No. 2007-00198 (2007) is a previous determination authorizing the city to withhold certain information subject to section 552.130(a)(2) of the Government Code without the necessity of requesting an attorney general decision. On September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3), such as driver's license numbers, 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)).

under sections 552.108, 552.130, and 552.152 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts from disclosure information 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* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal prosecution and have submitted a statement from the Chief of the Misdemeanor Division of the Tarrant County District Attorney's Office objecting to the release of the information at issue. Accordingly, 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*, 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 basic front-page offense and arrest information, the department may withhold the submitted information under section 552.108(a)(1).

You seek to withhold the identifying information of undercover officers from the basic information under section 552.152 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 § 552.152. You inform us the information you have marked under section 552.152 consists of the names and identification numbers of undercover police officers. You state release of this information would subject the officers to a "substantial

²Although you raise section 552.151 of the Government Code, we note the 82nd Texas Legislature renumbered section 552.151 to section 552.152 of the Government Code. *See* Act of May 9, 2011, 82nd Leg., R.S., S.B. 1303, § 27.001(20) (to be codified as Gov't Code § 552.152).

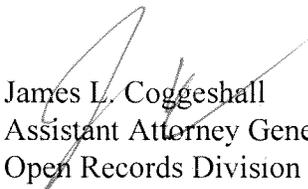
threat of physical harm.” Based on your representation, we agree the city must withhold the information you have marked from the basic information under section 552.152 of the Government Code.

To conclude, with the exception of basic information, which the city must release, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the city must redact the information you have marked under section 552.152 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/ag

Ref: ID# 442226

Enc. Submitted documents

c: Requestor
(w/o enclosures)