



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 3, 2012

Mr. Stephen Cumbie  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2012-06461

Dear Mr. Cumbie:

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# 452867 (W014835 and W014890).

The City of Fort Worth (the "city") received two requests for information pertaining to a specified investigation and related arrests. You state the city does not possess any surveillance or dash cam videos or any 9-1-1 audio recordings pertaining to the investigations and arrests.<sup>1</sup> You claim the 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.

Initially, we note the submitted information contains search warrants that have been filed with a court. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Gov't Code § 552.022(a)(17). Such information must be released unless it is confidential under the Act or other law. You claim the search warrants, which we have marked, are excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

interests and, therefore, does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the city may not withhold marked search warrants under section 552.108. However, we note some of this information contains information that is subject to sections 552.130 and 552.136 of the Government Code, which make information confidential under the Act.<sup>2</sup> Therefore, we will consider the applicability of these exceptions to one of the marked search warrants. The remaining marked search warrants must be released in their entirety pursuant to section 552.022(a)(17).

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country, is excepted from public release. Gov't Code § 552.130(a)(1). Therefore, the city must withhold the driver's license number we have marked under section 552.130.

Section 552.136(b) of the Government Code provides that "[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential." *Id.* § 552.136(b). Thus, the city must withhold the partial bank account numbers we have marked in the marked under section 552.136.

You claim the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 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[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information relates to a pending criminal investigation. Based on this representation, we conclude 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. 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). Accordingly, section 552.108(a)(1) is applicable to the remaining information.

As you acknowledge, 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)

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

(summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, which you state has been released, the city may withhold the remaining submitted information under section 552.108(a)(1).

In summary, the city must withhold the driver's license number we have marked under section 552.130 of the Government Code and the partial bank account numbers we have marked under section 552.136 of the Government Code and release the remaining information in the marked search warrants pursuant to section 552.022(a)(17) of the Government Code. Except for basic information, which you state has been 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](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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 452867

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)