



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 31, 2012

Ms. Michelle M. Kretz
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2012-13824

Dear Ms. Kretz:

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# 468341 (PIR No. W019039).

The City of Fort Worth (the "city") received a request for information related to a fatal traffic accident. You state a responsive crash report has been released pursuant to section 550.065(c)(4) of the Transportation Code. You inform us the city will withhold other responsive information pursuant to sections 552.130 and 552.147 of the Government Code and the previous determination issued under section 552.130(a)(2) in Open Records Decision No. 684 (2009).¹ You claim the rest of 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 information you submitted.

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

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of requesting a decision from this office. See Gov't Code § 552.130(c); see also *id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without requesting a decision. Open Records Decision No. 684 authorizes all governmental bodies to withhold a Texas license plate number under section 552.130 of the Government Code without requesting a decision.

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 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 information at issue is related to a pending criminal investigation. You have provided an affidavit from the city’s police department stating release of the information would interfere with the investigation. Based on your representations and the affidavit, we conclude section 552.108(a)(1) is 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note the submitted information includes a statutory warning. Because a copy of that document was provided to the person who is the subject of the warning, we find release of the statutory warning will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the city may not withhold the statutory warning under section 552.108 of the Government Code.

We also note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The city must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. Except for basic information and the statutory warning, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code.

Lastly, we note the statutory warning contains a driver’s license number. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country.² *See* Gov’t Code § 552.130(a)(1). The city must withhold the driver’s license number in the statutory warning under section 552.130 of the Government Code.

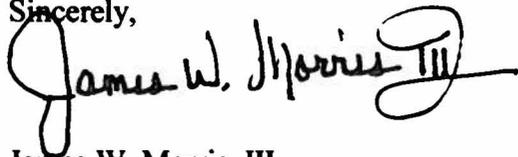
In summary, the city (1) may withhold the information at issue under section 552.108(a)(1) of the Government Code, except for the statutory warning and basic information under section 552.108(c); (3) must withhold the driver’s license number in the statutory warning under section 552.130 of the Government Code; and (4) must release the remaining information in the statutory warning and basic information. As we are able to make these determinations, we need not address the other exception you claim.

²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov’t Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large, stylized initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bhf

Ref: ID# 468341

Enc: Submitted information

c: Requestor
(w/o enclosure)