



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2013

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2013-04853

Dear Ms. Pemberton:

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# 487814 (City ID# W010087).

The City of Killeen (the "city") received a request for all police reports from a specified time period for a specified address and all police reports from another specified time period for another specified address. You state you have released some information to the requestor. 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.

We note the submitted information contains court-filed documents subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). Although you raise section 552.108 of the Government Code for this information, this is a discretionary exception to disclosure that may be waived and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). As such, section 552.108 does not make information confidential for the purposes of section 552.022(a), and the court-filed documents, which we have marked, may not be

withheld on that basis. However, we note a portion of this information is subject to section 552.130 of the Government Code, which does make information confidential under the Act.¹ Therefore, we will address the applicability of section 552.130 to the court-filed documents, as well as your argument against disclosure of the information not subject to section 552.022(a).

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1)-(2). Therefore, the city must withhold the information we have marked in the court-filed documents under section 552.130. The remaining information in the court-filed documents must be released pursuant to section 552.022(a)(17) of the Government Code.

You raise section 552.108 of the Government Code for the remaining information. 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[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state reports 10-005465 and 10-018545 relate to pending criminal investigations with the city's police department. Further, you state the Bell County Attorney's Office objects to the release of the remaining information in report 10-002981 because it relates to a pending criminal prosecution. Based on your representation and our review, we conclude release of the information at issue would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes 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 generally applicable to the information at issue.

We note, and 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 186-88. Therefore, with the exception of basic information, the city may withhold reports 10-005465 and 10-018545 and the remaining information in report 10-002981 under section 552.108(a)(1) of the Government Code.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary, with the exception of the motor vehicle record information we have marked, which the city must withhold under section 552.130 of the Government Code, the city must release the court-filed documents we have marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, which the city states it has released, the city may withhold reports 10-005465 and 10-018545 and the remaining information in report 10-002981 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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/tch

Ref: ID# 487814

Enc. Submitted documents

c: Requestor
(w/o enclosures)