



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 12, 2013

Ms. Michelle M. Kretz  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3rd Floor  
Fort Worth, Texas 76102

OR2013-13976

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# 500324 (PIR W027239).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident. You state you will release some information. We understand the city will redact the originating telephone numbers and addresses of 9-1-1 callers pursuant to Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011) and certain motor vehicle record information pursuant to section 552.130(c) of the Government Code.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>Open Records Letter Nos. 2011-15641 and 2011-15956 are previous determinations issued to the city authorizing the city to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, without requesting a decision from this office. See Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to 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 Gov't Code § 552.130(d), (e).

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 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 the submitted information relates to a pending criminal investigation, and 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).

We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The city provided copies of these forms to the arrestee. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Accordingly, the DIC-24 and DIC-25 forms may not be withheld under section 552.108.

Additionally, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186–87; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code. *See* ORD 127. Therefore, with the exception of the DIC-24 and DIC-25 forms and basic information, the city may withhold the remaining information under section 552.108(a)(1).<sup>2</sup>

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller*, 354 S.W.3d 336. Thus, under Texas Comptroller section 552.102(a) is applicable to the birth date of an employee of a governmental body in a record maintained by his or her employer in an employment context. The information you have marked in the DIC-24 and DIC-25 forms is held by the city in a law enforcement context. Thus, we find the information you marked is not subject to section 552.102(a) of the Government Code, and the city may not withhold it on that basis.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

Some of the information at issue may be subject to section 552.1175 of the Government Code.<sup>3</sup> Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Act of May 26, 2013, 83rd Leg., R.S., H.B. 1632, § 3 (to be codified as an amendment to Gov't Code § 552.1175). Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure." Gov't Code § 552.1175(a)(1). The DIC-24 and DIC-25 forms contain the home address and date of birth of an individual who is listed as a police officer. We have marked information pertaining to the individual at issue not held in an employment capacity that may be subject to section 552.1175. Accordingly, if the individual whose information we have marked is currently a licensed peace officer and elects to restrict access to the information pertaining to him in accordance with section 552.1175(b), the city must withhold the marked information under section 552.1175 of the Government Code. If the individual is not currently licensed or did not elect to restrict access to the information pertaining to him in accordance with section 552.1175(b), the city may not withhold the information at issue under section 552.1175 of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license issued by a Texas agency, or an agency of another state or country, is excepted from public release. Gov't Code § 552.130(a)(1). Upon review, we find the city must withhold the driver's license information marked in the DIC-24 and DIC-25 forms under section 552.130 of the Government Code.

In summary, with the exception of basic information and the DIC-24 and DIC-25 forms, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. If the individual whose information we have marked is currently a licensed peace officer and elects to restrict access to the information pertaining to him in accordance with section 552.1175(b) of the Government Code, the city must withhold the information we have marked in the DIC-24 and DIC-25 forms under section 552.1175 of the Government Code. The city must also withhold the driver's license information marked in the DIC-24 and DIC-25 forms under section 552.130 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.

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<sup>3</sup>The 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).

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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay  
Assistant Attorney General  
Open Records Division

PL/bhf

Ref: ID# 500324

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)