



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 24, 2022

Ms. Rachel Raggio
Counsel for the City of Weatherford
Taylor, Olson, Adkins, Sralla, Elam, L.L.P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107

OR2022-32630

Dear Ms. Raggio:

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# 980371 (ORR# W003697).

The Weatherford Police Department (the "department"), which you represent, received a request for information pertaining to a named individual. The department states it is withholding some of the requested information pursuant to section 552.130(c) of the Government Code and Open Records Letter No. 2018-01572 (2018).¹ The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.108(a) 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: (1) 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(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1),

¹ Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor pursuant to section 552.130(e). *See id.* § 552.130(d), (e). Open Records Letter No. 2018-01572 authorizes the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001).

.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). We note the submitted information includes a citation, a DIC-24 statutory warning, and a DIC-25 notice of suspension. Because the department provided copies of these forms to the arrestee, we find their release will not interfere with the detection, investigation, or prosecution of crime. Therefore, the department may not withhold the submitted citation or DIC-24 and DIC-25 forms under section 552.108(a)(1). The department states the remaining information relates to a pending criminal investigation. Based on this representation, we conclude the release of the remaining 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 the *Houston Chronicle* decision. *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* decision). Thus, with the exception of the submitted citation, the submitted DIC-24 and DIC-25 forms, and basic information, which the department must release, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

However, the requestor is with the Texas Department of Family and Protective Services (“DFPS”). Section 411.114 of the Government Code allows, among other things, for DFPS to obtain criminal history record information (“CHRI”) concerning an individual who is the subject of a report of abuse or neglect of a child. *See* Gov't Code § 411.114(a)(4), (a)(2)(I). CHRI consists of “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2).

The requestor does not state whether the named individual is a suspect in a report of abuse or neglect of a child. Therefore, we must rule conditionally. *See id.* § 411.114; *see also id.* § 411.082(2). If the named individual is a suspect in a report of abuse or neglect of a child, then the department must release the CHRI pertaining to that individual pursuant to section 411.114 of the Government Code. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). However, if the named individual is not a suspect in a report of abuse or neglect of a child, then the department is not required to release the individual's CHRI on that ground.

In summary, with the exception of the submitted citation, the submitted DIC-24 and DIC-25 forms, and basic information, which the department must release, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, if the named individual is a suspect in a report of abuse or neglect of a child, then the department must release the CHRI pertaining to that individual pursuant to section 411.114 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 980371

Enc. Submitted documents

c: Requestor
(w/o enclosures)