



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 22, 2009

Mr. Bruce P. Sadler
Assistant District Attorney
47th Judicial District of Texas
Potter and Armstrong Counties
501 S Fillmore, Suite 5A
Amarillo, Texas 79101-2449

OR2009-05340

Dear Mr Sadler:

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# 340543.

The Potter County District Attorney (the "district attorney") received a request for all information that was used as evidence against the requestor in two specified cases. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted documents include an accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that except as

¹We note you seek to withhold social security numbers under section 552.101 of the Government Code. However, section 552.147 of the Government Code is the proper exception for this type of information. Section 552.147(b) authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Thus, the district attorney may generally withhold the social security numbers you have marked under section 552.147. However, this exception protects privacy interests, and the requestor has a right to his own social security number. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates solely on grounds that information is considered confidential by privacy principles.)

provided by subsection (c), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental body is required to release a copy of an accident report to a person who provides the governmental body with two or more pieces of information specified by the statute. *Id.* In the present request, the requestor has not provided the district attorney with two of the three pieces of information; thus, you must withhold the submitted accident report form under section 550.065(b) of the Transportation Code.

You assert a portion of the submitted information is excepted under section 552.108(a)(1) of the Government Code, which provides:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 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 subsection 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert that the redacted portions of the incident reports contain information that would interfere with the detection, investigation, or prosecution of crime. However, in your brief, you inform us that the suspect in these incidents entered a plea of guilty and has been sentenced to a term in prison. Upon review, we determine that you have failed to demonstrate how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. Therefore, we conclude that the district attorney may not withhold the information at issue under section 552.108(a)(1) of the Government Code.

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 a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). However, some of the motor vehicle information you have marked belongs to the requestor. Because this exception protects personal privacy, the requestor has a right of access to his own motor vehicle record information under section 552.023 of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). The district attorney may not withhold the requestor's own motor vehicle information from him under section 552.130. Therefore, with the exception of the Texas motor vehicle information

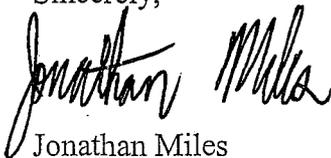
belonging to the requestor, which we have marked for release, the district attorney must withhold the Texas motor vehicle information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

In summary, the district attorney must withhold the submitted accident report form, which we have marked, under section 550.065(b) of the Transportation Code. With the exception of the Texas motor vehicle information belonging to the requestor, which we have marked for release, the district attorney must withhold the Texas motor vehicle information you have marked, and the additional information we have marked, under section 552.130 of the Government Code. The remaining information must be released.²

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 at (512) 475-2497.

Sincerely,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 340543

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note that because the requestor has a special right of access to the information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.