



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 19, 2010

Mr. David K. Walker  
County Attorney  
Montgomery County  
Open Records Division  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2010-10697

Dear Mr. Walker:

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# 387084 (ORR No. 2010-1717).

The Montgomery County Sheriff's Department (the "sheriff") received a request for two specified reports. We note you have redacted portions of the submitted information pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim some of the submitted information is exempted from disclosure under section 552.108 of the Government Code.<sup>2</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have redacted portions of the submitted information under section 552.130 of the Government Code pursuant to the previous determination issued to all governmental bodies in Open Records Decision No. 684 (2009). Open Records Decision No. 684 authorizes the withholding of ten categories of information, including a Texas

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<sup>1</sup>Section 552.147(b) of the Government Code 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. *See* Gov't Code § 552.147(b).

<sup>2</sup>Although you also raise section 552.101 of the Government Code, you have not submitted arguments explaining how this exception applies to the submitted information. Therefore, we presume that you have withdrawn this exception. *See* Gov't Code §§ 552.301, .302.

driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. We note the department is not authorized to withhold out-of-state motor vehicle record information pursuant to Open Records Decision No. 684. Section 552.130 states "[i]nformation is excepted from [required public disclosure] if the information relates to . . . a motor vehicle operator's or driver's license [or] motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a)(1), (2). In this instance, the information you have redacted under section 552.130 relates to an out-of-state driver's license. However, we note section 552.130 does not encompass out-of-state driver's license information. Consequently, the sheriff may not withhold the information you have redacted under section 552.130 of the Government Code.

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[.]" *Id.* § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert submitted report number 10A006528 relates to an active criminal investigation, and have submitted an affidavit stating the release of this information would interfere with the pending investigation. Based on these representations, we conclude the release of report number 10A006528 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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 *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note basic information does not include driver's license numbers. *See* ORD 127 at 3-4. Accordingly, with the exception of basic information, which must be released, the sheriff may withhold report number 10A006528 under section 552.108(a)(1) of the Government Code.<sup>3</sup> As you raise no additional exceptions, the remaining submitted report must be released in its entirety.

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>As our ruling is dispositive, we need not address the remaining exceptions you assert for this information.

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](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,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/jb

Ref: ID# 387084

Enc. Submitted documents

c: Requestor  
(w/o enclosures)