



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 26, 2010

Ms. M. Ann Montgomery
Assistant Ellis County & District Attorney
1201 North Highway 77, Suite 104
Waxahachie, Texas 75165-7832

OR2010-11143

Dear Ms. Montgomery:

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# 387845.

The Ellis County Sheriff's Office (the "sheriff") received a request for a specified incident report. You claim portions of the submitted information are excepted from disclosure under sections 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted 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[.]" Gov't Code § 552.108(a)(1). Generally, 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 information you have marked under section 552.108 pertains to a pending criminal investigation. We note the information at issue includes a Miranda warning, statutory warning and notice of suspension. Because copies of these documents, which we have marked, have been provided to the arrestee, we find their release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the sheriff may not withhold these documents under section 552.108(a)(1). Based on your representation and our review, we conclude the release of the remaining information you have marked 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). Thus, section 552.108(a)(1) is generally applicable to the remaining information you have marked.

However, 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* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You state you will release basic information. We note, however, you seek to withhold the entire narrative under section 552.108. Furthermore, the information marked for release does not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *Id.* Accordingly, we determine the sheriff must release a sufficient portion of the narrative to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. With the exception of the Miranda warning, statutory warning, notice of suspension, and basic information, the sheriff may withhold the information you have marked under section 552.108(a)(1).¹

You assert a portion of the remaining information is excepted under section 552.130 of the Government Code, which 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). We agree the Texas motor vehicle record information we have marked is subject to section 552.130 of the Government Code.² However, the remaining information you have marked does not consist of Texas motor vehicle record information and, thus, may not be withheld under section 552.130. We note, however, the requestor may be an employee of the owner of the vehicle mentioned in the submitted information. As such, this requestor, if acting as the vehicle owner's authorized representative, has a right of access to the information relating to the vehicle. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when an individual or authorized representative asks governmental body to provide information concerning that individual). In this instance, it is not clear whether the requestor is acting as the vehicle owner's authorized representative. Therefore, we must rule conditionally. To the extent the requestor has a right of access under section 552.023 to the information pertaining to the vehicle, the department must release that information to this requestor and withhold the Texas driver's license information we have marked under

¹As our ruling under section 552.108 is dispositive for the information at issue, we need not address your remaining arguments against disclosure, except to note basic information may generally not be withheld from public disclosure under section 552.103. *See* Open Records Decision No. 597 (1991).

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a Texas license plate number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

section 552.130. To the extent this requestor does not have a right of access under section 552.023, the department must withhold all the information we have marked from the requestor under section 552.130 of the Government Code.

You claim the social security number you have marked is excepted from disclosure under section 552.147 of the Government Code. This section provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147. Accordingly, the sheriff may withhold the social security number you have marked pursuant to section 552.147 of the Government Code.³

In summary, except for the Miranda warning, statutory warning, notice of suspension, and basic information, the sheriff may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The sheriff must withhold the Texas driver’s license information we have marked under section 552.130 of the Government Code. To the extent the requestor does not have a right of access to the information relating to the vehicle under section 552.023 of the Government Code, the sheriff must withhold the remaining information we have marked under section 552.130 of the Government Code. The sheriff may withhold the social security number you have marked under section 552.147 of the Government Code. The remaining information must be released.

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

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³We note 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.

Ref: ID# 387845

Enc. Submitted documents

c: Requestor
(w/o enclosures)