



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 29, 2010

Mr. Flint Matzke  
Assistant County Attorney  
Brazos County  
300 East 26<sup>th</sup> Street, Suite 325  
Bryan, Texas 77803

OR2010-19468

Dear Mr. Matzke:

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# 409089.

The Brazos County Sheriff's Office (the "sheriff") received a request for information related to case number 10-5352. You state that some responsive information has been provided to the requestor. You claim that the remaining requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

We note the submitted information includes two citations. Because the citations have been provided to the individuals who were cited, we find that release of this information 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 the citations, which we have marked, under section 552.108(a)(1).

You state that the remaining information relates to a pending criminal case. Based on this representation and our review, we conclude section 552.108(a)(1) is applicable to the remaining information. 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).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. Thus, the sheriff must release basic information even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). With the exception of the citations and basic information, the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note that the citations contain information subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 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 note that section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to his own Texas driver's license number under section 552.023 of the Government Code and the sheriff may not withhold it from the requestor under section 552.130. See § 552.023(a); Open Records Decision No. 481 at 4 (1987). We have marked the Texas motor vehicle record information that the sheriff must withhold under section 552.130 of the Government Code.<sup>3</sup>

In summary, with the exception of the citations and basic information, the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code. We have marked the Texas motor vehicle record information that the sheriff must withhold

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<sup>2</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</sup>We note that Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130, without the necessity of requesting an attorney general decision.

under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.<sup>4</sup>

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](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 409089

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>4</sup>We note that section 552.103 generally does not except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991). We also note that section 552.103 is generally not applicable to information that the opposing party in litigation has already seen or to which the opposing party has previously had access. *See* Open Records Decision Nos. 349 (1982), 320 (1982).