



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 29, 2011

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2011-04316

Dear Mr. Scott:

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# 417333 (City ID# 64).

The Wichita Falls Police Department (the "department") received a request for information relating to a fatal traffic accident. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We note the submitted information includes copies of a crash report 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 provided by subsection (c) or (e), accident reports are privileged and confidential.¹ *See id.* § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides two of the following three items of information: (1) the date of the accident; (2) the name of any person involved in the accident; and (3) the specific location of the accident. *See id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who

¹Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses information other statutes make confidential.

provides the agency with two or more of the items of information specified by the statute. *Id.* We note the exceptions to disclosure found in the Act are generally not applicable to information that another statute makes public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). In this instance, the requestor has provided the department with two of the three specified items of information. Therefore, the department must release the crash report we have marked to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code.

Next, we address your claim under section 552.108 of the Government Code for the rest of the information at issue. 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). 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). You inform us, and have provided a letter from an assistant district attorney for Wichita County stating, release of the remaining information would interfere with a pending criminal prosecution. Based on your representations and the assistant district attorney’s letter, we conclude section 552.108(a)(1) is generally 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note the remaining information includes a statutory warning, which we have marked. Because a copy of that document is provided to the person who is the subject of the warning, we find release of the statutory warning will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the department may not withhold the statutory warning under section 552.108(a)(1).

We also note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 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. The department must release basic offense and arrest information, including a detailed description of the offense, 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*). Except for the statutory warning, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

Lastly, we note the statutory warning contains a Texas driver’s license number. Section 552.130 of the Government Code excepts from disclosure information relating to a

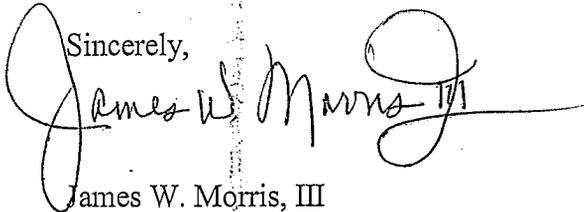
motor vehicle operator's or driver's license or permit issued by an agency of this state.² See Gov't Code § 552.130(a)(1). The department must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code.³ The remaining information in the statutory warning must be released.

In summary, the department (1) must release the marked crash report to this requestor in its entirety pursuant to section 550.065(c)(4) of the Transportation Code; (2) may withhold the remaining information under section 552.108(a)(1) of the Government Code, except for the marked statutory warning and the basic offense and arrest information that must be released under section 552.108(c); (3) must withhold the marked Texas driver's license number under section 552.130 of the Government Code; and (4) must release the remaining information in the statutory warning.⁴

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

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²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

³We note Open Records Decision No. 684 (2009) is a previous determination issued by this office authorizing all governmental bodies to withhold ten categories of information without the necessity of requesting an attorney general decision, including a Texas driver's license number under section 552.130 of the Government Code.

⁴We note basic information includes an arrested person's social security number. 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.

Ref: ID# 417333

Enc: Submitted information

c: Requestor
(w/o enclosures)