



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 7, 2011

Ms. Luz E. Sandoval Walker  
Mr. Robert Almonte  
Assistant City Attorneys  
City of El Paso  
2 Civic Center Plaza, 9<sup>th</sup> Floor  
El Paso, Texas 79901

OR2011-08059

Dear Ms. Sandoval Walker and Mr. Almonte:

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# 419741.

The El Paso Police Department (the "department") received two requests for information relating to a specified accident. You state you have released the #1 Complaint Report and the Texas Peace Officer's Crash Report. *See* Trans. Code § 550.065(c)(4). You indicate the department will redact a Texas license plate number pursuant to Open Records Decision No. 684 (2009) and a social security number pursuant to section 552.147(b) of the Government Code. *See* Gov't Code §§ 552.147(b), 301(a); ORD 684 (previous determination authorizing any governmental body to withhold ten categories of information, including a Texas license plate number under section 552.130 of Government Code without necessity of requesting attorney general opinion). You claim the remaining information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

We first note the department has released the complaint affidavits to the first requestor. However, you seek to withhold these compliant affidavits from the second requestor. The Act does not permit the selective disclosure of information to the public. *See* Gov't Code §§ 552.007(b), .021; Open Records Decision No. 463 at 1-2 (1987). If information has been voluntarily released to any member of the public, then that same information may not subsequently be withheld from the public, unless its public disclosure is expressly prohibited by law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). *But see* Open Records Decision Nos. 579 (1990) (exchange of information among

litigants in “informal” discovery is not “voluntary” release of information for purposes of statutory predecessor to Gov’t Code § 552.007), 454 at 2 (1986) (governmental body that disclosed information because it reasonably concluded that it had constitutional obligation to do so could still invoke statutory predecessor to Gov’t Code § 552.108). Your claimed exception for the information at issue, section 552.108 of the Government Code, does not prohibit public disclosure of information. *See* Open Records Decision No. 177 at 3 (1977) (statutory predecessor to Gov’t Code § 552.108 did not prohibit release of information). Thus, the complaint affidavits, which have been voluntarily released to a member of the public, may not now be withheld under section 552.108 of the Government Code.

Section 552.108 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). You state the submitted information relates to an ongoing investigation. We note the submitted information includes a statutory warning and a notice of suspension. Because copies of those documents are provided to the person who is the subject of the warning and the notice, we find release of the statutory warning and the notice of suspension 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 and the notice of suspension, which we have marked, under section 552.108(a)(1). However, based on your representations, 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 that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 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*). Thus, except for the statutory warning, the notice of suspension, basic information, and complaint affidavits, the department may withhold the submitted information at issue under section 552.108(a)(1).

Lastly, we note the remaining information contains Texas motor vehicle record information. Section 552.130 of the Government Code provides 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. *See* Gov’t Code § 552.130(a)(1), (2). The

department must withhold the Texas motor vehicle record information we have marked under section 552.130.<sup>1</sup>

In summary, with the exception of the statutory warning, the notice of suspension, basic information, and complaint affidavits, the department may withhold the submitted information at issue under section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information we have marked in the remaining information pursuant to section 552.130 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](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,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 419741

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>1</sup>We note this office issued Open Records Decision No. 684 (2009), a previous determination authorizing all governmental bodies to withhold ten categories of information, including a Texas driver's license number and a Texas license plate number under section 552.130, without the necessity of requesting an attorney general decision.