



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 1, 2011

Ms. Kristin Kidd
Assistant District Attorney
Denton County
P.O. Box 2850
Denton, Texas 76202

OR2011-10976

Dear Ms. Kidd:

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# 425498.

The Denton County Criminal District Attorney's Office (the "district attorney") received a request for the police report and blood test results related to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

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 claiming 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); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We understand you to raise section 552.108(a)(1) for the submitted information. You state the submitted information relates to a pending criminal prosecution with the district attorney. Based on your representations and our

¹Although you raised sections 552.101, 552.103, and 552.111 of the Government Code, you did not provide any arguments regarding the applicability of this section. Therefore, we assume you have withdrawn these exceptions. *See* Gov't Code §§ 552.301, .302.

review, we find that release of the submitted information would interfere with the prosecution of the crime. 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). Therefore, section 552.108(a)(1) is generally applicable to the submitted information.

We note the information you seek to withhold under section 552.108 includes a statutory warning, which we have marked. Because a copy of this 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 statutory warning may not be withheld under section 552.108 and must be released.

We also note section 552.108 does not except 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; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information the district attorney may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

We note the submitted statutory warning contains a driver's license number. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). The district attorney must withhold the Texas driver's license number we have marked under section 552.130.³

In summary, except for the marked driver's license number, which the district attorney must withhold under section 552.130 of the Government Code, the district attorney must release the marked statutory warning to the requestor. With the exception of basic information, the

²Although you raise section 552.147 of the Government Code, we note the submitted information does not include any social security numbers. However, we also note basic information includes an arrestee'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. Gov't Code § 552.147(b).

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

district attorney may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 425498

Enc. Submitted documents

c: Requestor
(w/o enclosures)