



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2011

Mr. John Ohnemiller  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2011-17741

Dear Mr. Ohnemiller:

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# 437549.

The Midland Police Department (the “department”) received two requests from different requestors for information concerning a specified incident. You state you have released basic information to the requestors. *See* Gov’t Code § 552.108(c) (basic information about an arrested person, an arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). You claim the remaining submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” 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* Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. We note the first requestor identifies herself as a Special Agent for the Security and Investigations Branch of the Federal Aviation Administration. However, the first requestor does not indicate that she has a statutory right of access to the submitted information. *See* Open Records Decision Nos. 613

at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Accordingly, based on your representation and our review, we conclude section 552.108(a)(1) is generally applicable in this instance. *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 note, however, the information at issue includes a DIC 24 statutory warning. The arrestee was provided a copy of this form. You have not explained how releasing this information, which has already been seen by the arrestee, would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). Accordingly, the DIC-24 form may not be withheld under section 552.108. Therefore, with the exception of basic information, which you state you have released, and the DIC-24 form which has been seen by the arrestee, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note the DIC-24 form contains the arrestee's driver's license number. Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license or driver's license 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). We find the driver's license number we have marked falls within the scope of section 552.130. However, section 552.130 protects personal privacy. Accordingly, the second requestor has a right of access to his own driver's license number under section 552.023 of the Government Code. *See Gov't Code* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). The department must withhold the driver's license number we have marked in the DIC-24 form from the first requestor under section 552.130 of the Government Code.

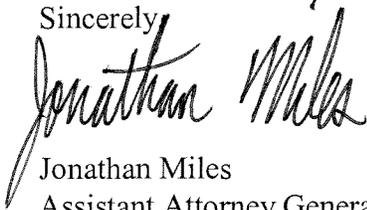
In summary, with the exception of basic information, which you state you have released, and the DIC-24 form which has been seen by the arrestee, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. The department must withhold the driver's license number we have marked in the DIC-24 form from the first requestor under 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

A handwritten signature in black ink that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/em

Ref: ID# 437549

Enc. Submitted documents

c: Requestor  
(w/o enclosures)