



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 28, 2011

Mr. Whitt L. Wyatt  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
1800 Lincoln Plaza  
500 North Akard Street  
Dallas, Texas 75201

OR2011-19059

Dear Mr. Wyatt:

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# 445399 (Ref. No. 52787).

The Allen Police Department (the "department"), which you represent, received a request for information pertaining to a specified traffic stop. 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 submitted information.

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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to an open and pending criminal investigation. Based upon your representation and our review, we conclude that 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 curium*, 536 S.W.2d 559 (Tex. 1976). We note, however, that the information at issue includes a DIC-24 statutory warning. The department provided a copy of this form to the arrestee. 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.

Additionally, 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 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the DIC-24 form and basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> Gov't Code § 552.130(a)(1). We have marked the information in the DIC-24 form that is subject to section 552.130. We note section 552.130 protects personal privacy. The requestor, however, may be acting as the authorized representative of the individual whose driver's license number is at issue. Accordingly, if the requestor is acting as the authorized representative of this individual, he has a right of access to this individual's driver's license number under section 552.023 of the Government Code, and the department may not withhold it from him under section 552.130. *See id.* § 552.023(b). If the requestor is not acting as the individual's authorized representative, the department must withhold the marked driver's license number under section 552.130 of the Government Code.

In summary, except for the marked Texas driver's license number, which the department must withhold under section 552.130 of the Government Code, unless the requestor is the individual's authorized representative, the DIC-24 form must be released. Except for basic information, which must be released, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note basic information includes the social security number of an arrested person. 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). However, the requestor may be the authorized representative of the arrestee at issue. Because section 552.147 protects personal privacy, the requestor may have a right of access to the arrestee's private information under section 552.023 of the Government Code. *See id.* § 552.023(a). Therefore, if the requestor is the authorized representative of the arrestee, then the arrestee's social security number must be released to the requestor. If the requestor is not the arrestee's authorized representative, this social security number may be withheld under section 552.147.

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 cursive script that reads "Tamara H. Holland".

Tamara H. Holland  
Assistant Attorney General  
Open Records Division

THH/ag

Ref: ID# 445399

Enc. Submitted documents

c: Requestor  
(w/o enclosures)