



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 9, 2012

Mr. David K. Walker
County Attorney
County of Montgomery
207 West Phillips Suite 100
Conroe, Texas 77301

OR2012-05038

Dear Mr. Walker:

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# 454182 (ORR# 2012-1342).

The Montgomery County Sheriff's Department (the "department") received a request for information related to a specified arrest. You state you are withholding driver's license numbers under section 552.130 of the Government Code.¹ You also state you will redact social security numbers pursuant to section 552.147 of the Government Code.² You claim that some of the 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.

We note the submitted information includes a crash report that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, a motor vehicle operator's or driver's license or permit issued by an agency of this state, or another state or country, and a personal identification document issued by an agency of this state, or another state or country, or a local agency authorized to issue an identification document. Gov't Code § 552.130(c); *see id.* § 552.130(d) (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general), .130(e) (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

²Section 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. *Id.* § 552.147(b).

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. *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 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 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 submitted crash report must be released 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 remaining 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).

We note, however, the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The department provided copies of these forms 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 and DIC-25 forms may not be withheld under section 552.108.

You inform us, and have provided an affidavit from an assistant district attorney for Montgomery County stating, that the remaining information is related to an ongoing criminal prosecution. Based on your representations and the affidavit, we find release of the remaining information would interfere with the detection, investigation, or prosecution of a 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 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) of the Government Code generally applies to the remaining information.

As you acknowledge, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 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. Basic information must be released, even if it does not literally appear on the front page of the report. See Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of the DIC-24 and DIC-25 forms and basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

We note the DIC-25 form contains a photocopy of the arrestee’s driver’s license. Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license or driver’s license, title, or registration, issued by an agency of this state, or an agency of another state or country, is excepted from public release. Gov’t Code § 552.130(a)(1)-(2). The department must withhold the photocopy of a driver’s license in the DIC-25 form under section 552.130 of the Government Code.

In summary, the department must release the submitted crash report in its entirety pursuant to section 550.065(c)(4) of the Transportation Code. Except for the DIC-24 and DIC-25 forms and basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the DIC-24 and DIC-25 forms and basic information, the department must withhold the photocopy of the arrestee’s driver’s license under section 552.130 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 454182

Enc. Submitted documents

c: Requestor
(w/o enclosures)