



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2012

Ms. Laura Russell  
Attorney  
Texas Parks and Wildlife Department  
4200 Smith School Road  
Austin, Texas 78744-3291

OR2012-11365

Dear Ms. Russell:

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# 459762.

The Texas Parks and Wildlife Department (the "department") received a request for all records pertaining to a specified incident. You state you will release some of the requested information. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requestor has expressly excluded from her request social security numbers, driver's license numbers, and juvenile information. Thus, this information is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, nor is the department required to release non-responsive information in response to this request.

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

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 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 although the subject of the information was convicted of the incident at issue in the submitted information, the case is currently on appeal. You assert, and have provided a letter from the Brazos County Attorney’s Office stating, release of the information you have marked would interfere with a pending criminal prosecution. We note, however, the submitted information includes a DIC-24 statutory warning and a DIC-25 notice of suspension, copies of which have been provided to the subject individual. You have not explained how releasing this information, which has been provided to the subject individual, 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. However, we find release of the remaining information you have marked would interfere with the detection, investigation, or prosecution of 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).

We note, and 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 186-87. The department must release basic information, including a detailed description of the offense, 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*). We note you have marked for withholding the entire narrative portion of the submitted report. The information you have not marked in the submitted report does not contain information sufficient to satisfy the requirement that a detailed description of the offense be released. Accordingly, the department must release sufficient portions of the submitted report to encompass basic information as described by *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* ORD 127. Thus, with the exception of the DIC-24 and DIC-25 forms and basic information, the department may withhold the information it has marked 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](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,



Melanie J. Villars  
Assistant Attorney General  
Open Records Division

MJV/bs

Ref: ID# 459762

Enc. Submitted documents

c: Requestor  
(w/o enclosures)