



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 5, 2012

Mr. Sam Aguirre
Assistant City Attorney
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666

OR2012-19509

Dear Mr. Aguirre:

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# 477086.

The San Marcos Police Department (the "department") received a request for information related to case number 12-63566. 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.

Initially, we note the submitted information contains a CR-3 accident report form completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) provides, except as provided by subsections (c) or (e), accident reports are privileged and confidential. Section 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces 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. *Id.* § 550.065(c)(4).

In this instance, the requestor has provided the department with two of the requisite pieces of information specified by the statute. Although you seek to withhold this information under section 552.108 of the Government Code, we note information that is specifically made public by statute may not be withheld from the public pursuant to the general

exceptions under the Act. *See, e.g.*, Open Records Decision Nos. 544 (1990), 378 (1983), 161 (1977), 146 (1976). Accordingly, the department must release the submitted CR-3 accident report form in its entirety to this requestor pursuant to chapter 550 of the Transportation Code.

We now address your argument under section 552.108 of the Government Code for the remaining submitted information. Section 552.108 excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 the information at issue includes a statutory warning, form DIC-24, and a notice of suspension, form DIC-25. Because copies of those forms were provided to the person who is the subject of the warning and the notice, we find release of the statutory warning and notice of suspension will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the department may not withhold the statutory warning or notice of suspension under section 552.108 of the Government Code.

You state release of the remaining information would interfere with a pending criminal prosecution. Based on your representation, we find release of the remaining information 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We also note 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 offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for basic information, the statutory warning, and the notice of suspension, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

Lastly, we note the statutory warning and notice of suspension contain the arrested person’s driver’s license number. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator’s or driver’s license or permit issued by an

agency of this state or another state or country.¹ See Gov't Code § 552.130(a)(1). The department must withhold the driver's license number we have marked in the statutory warning and the notice of suspension under section 552.130 of the Government Code.

In summary, the department must release the submitted CR-3 accident report form in its entirety to this requestor pursuant to chapter 550 of the Transportation Code. Except for the statutory warning, the notice of suspension, and basic information under section 552.108(c), the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing basic information, the statutory warning, and the notice of suspension, the department must withhold the marked driver's license number 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# 477086

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).