



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 23, 2013

Ms. Teresa J. Brown
Senior Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-14802

Dear Ms. Brown:

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# 497467 (Plano Tracking #DUTN060413).

The Plano Police Department (the "department") received three requests from the same requestor for the police report, blood test results, and officer information pertaining to a specified incident. You state you do not have the requested blood test results.¹ You state you have released some of the requested information to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²We assume that 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 that those records contain substantially different types of information than that submitted to this office.

Initially, we note the submitted information contains a search warrant and order that were signed by a magistrate. Court-filed documents are expressly public under section 552.022(a)(17) of the Government Code. Gov't Code § 552.022(a)(17). Such information must be released unless it is confidential under the Act or other law. You claim the search warrant and order are excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and, therefore, does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the department may not withhold the search warrant and order, which we have marked, under section 552.108. However, as sections 552.117 and 552.130 of the Government Code make information confidential under the Act, we will consider your arguments under those sections for the search warrant and order. We will also consider your arguments for the information not subject to section 552.022 of the Government Code.

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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the information at issue pertains to a pending criminal case and release of this 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 describes 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 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.

Additionally, 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* and includes a detailed description of the offense. *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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). You seek to withhold the entire narrative portion of the information at issue under section 552.108. However, the remaining portion of this information does not

contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See id.* Accordingly, we determine the department must release a sufficient portion of the narrative to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. Thus, with the exception of DIC-24 and DIC-25 forms and a sufficient portion of the narrative to encompass a detailed description of the offense, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.³

Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of specified categories of individuals. *See Gov’t Code* § 552.117. However, section 552.117 applies only to records that a governmental body is holding in an employment capacity. The information at issue consists of law enforcement records and is not held by the department in an employment capacity. Therefore, we find section 552.117 of the Government Code does not apply to the submitted information, and the department may not withhold any portion of the remaining information on that basis.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130. We note the remaining information includes the requestor’s motor vehicle information, which the department would generally be required to withhold from the general public under section 552.130 of the Government Code. Because section 552.130 protects personal privacy, the requestor has a right of access to her own motor vehicle information under section 552.023 of the Government Code, and it may not be withheld from her under section 552.130. *See id.* § 552.023(a); Open Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). However, the department must withhold the motor vehicle record information we have marked not pertaining to the requestor under section 552.130 of the Government Code.

In summary, with the exception of the search warrant, order, DIC-24 and DIC-25 forms, and a sufficient portion of the narrative to encompass a detailed description of the offense, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information we have marked not pertaining to the requestor under section 552.130 of the Government Code. The remaining information must be released.⁴

³As our ruling is dispositive for this information, we need not consider your remaining arguments against its disclosure.

⁴We note the information being released includes the requestor’s motor vehicle record information and social security number, to which the requestor has a right of access. *See Gov’t Code* § 552.023(a); ORD 481 at 4. Section 552.130(c) of the Government Code allows a governmental body to redact the information

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/tch

Ref: ID# 497467

Enc. Submitted documents

c: Requestor
(w/o enclosures)

described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Gov't Code § 552.130(d), (e). Additionally, 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. *Id.* § 552.147(b). Accordingly, if the department receives another request for this same information from a person who does not have such a right of access, sections 552.130(c) and 552.147(b) authorize the department to redact the requestor's motor vehicle record information and social security number without the necessity of requesting a decision under the Act.