



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 19, 2014

Mr. John K. McKinney, Jr.  
Assistant County Attorney  
Montgomery County  
501 North Thompson, Suite 300  
Conroe, Texas 77301

OR2014-23127

Dear Mr. McKinney:

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# 553084 (Request No. 14PIA0619).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for a specified offense report. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.108 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 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). You state the submitted information relates to a pending criminal investigation and prosecution. Based on your representation, we conclude release of most of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle*

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

*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, however, the submitted information includes a criminal trespass warning. Because a copy of this document is provided to the person who is the subject of the warning, we find its release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). We further note the information at issue includes a DIC-24 statutory warning and a DIC-25 notice of suspension. The sheriff's office 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 id.* Therefore, the sheriff's office may not withhold the criminal trespass warning or the DIC-24 and DIC-25 forms under section 552.108. However, we find section 552.108(a)(1) of the Government Code is applicable 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.” *Id.* § 552.108(c). Basic information refers to the 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). Thus, with the exception of the criminal trespass warning, the DIC-24 and DIC-25 forms, and basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release.<sup>3</sup> *See* Gov't Code § 552.130(a)(1). Accordingly, the sheriff's office must withhold the information we have marked in the criminal trespass warning and the DIC-24 and DIC-25 forms under section 552.130 of the Government Code.

In summary, except for the information we have marked under section 552.130 of the Government Code, the criminal trespass warning and the DIC-24 and DIC-25 forms must be released. Except for basic information, which must be released, the sheriff's office may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

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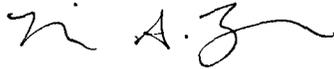
<sup>2</sup>Although basic information includes an arrestee's social security number, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,



Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ds

Ref: ID# 553084

Enc. Submitted documents

c: Requestor  
(w/o enclosures)