



October 30, 2000

Ms. Tamara Armstrong
Assistant County Attorney
Travis County, Texas
314 West 11th Street, Suite 300
P.O. Box 1748
Austin, Texas 78767

OR2000-4205

Dear Ms. Armstrong:

You ask whether certain information is subject to required public disclosure under the Public Information Act, chapter 552 of the Government Code. Your request was assigned ID # 141464.

The Travis County Sheriff's Office (the "sheriff") received a request for information relating to a specified case number. You claim that portions of the requested information are excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

Section 552.108 of the Government Code, the "law enforcement exception," provides in relevant part that "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] 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 an exception to disclosure under section 552.108 must reasonably explain, if the responsive information does not do so on its face, how and why section 552.108 is applicable. *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). You inform us that the responsive information you submitted as Exhibit "A" relates to an ongoing criminal investigation. Based on your representations and our review of the information in question, we find that its release would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code § 552.108(a)(1); Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.--Houston [14th Dist.] 1975),

writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

We note, however, that section 552.108 does not except from public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). The sheriff must release the kind of information that is considered to be basic front-page offense and arrest report information, including a detailed description of the offense, even if that information does not actually appear on the front page of the report. *See Houston Chronicle*, 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The sheriff may withhold the rest of the responsive information submitted as Exhibit “A” under section 552.108(a)(1).

You also claim that the responsive records contain information that is excepted from disclosure under section 552.130 of the Government Code. Section 552.130 provides in relevant part:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator’s or driver’s license or permit issued by an agency of this state;
- (2) a motor vehicle title or registration issued by an agency of this state; or
- (3) a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document.

Gov’t Code § 552.130(a). The sheriff must withhold all motor vehicle record information contained in the records submitted as Exhibit “B,” including a Texas driver’s license, license plate, or vehicle identification number, in accordance with section 552.130.

The records submitted as Exhibit “B” also contain social security number information that may be confidential under section 552.101 of the Government Code in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), *if that information was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990.*¹ *See* Open Records Decision No. 622 at 2-4 (1994). It is not apparent to this office that the social security number information in

¹Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Unlike other exceptions to disclosure under chapter 552 of the Government Code, this office will raise section 552.101 on behalf of a governmental body. *See* Open Records Decision No. 325 (1982) (raising statutory predecessor).

question was obtained or is maintained by the sheriff pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the sheriff to obtain or maintain a social security number. Therefore, we have no basis for concluding that the information in question was obtained or is maintained pursuant to such a law and is therefore confidential under section 405(c)(2)(C)(viii)(I) of the federal law. We caution you, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing any of the social security number information contained in Exhibit "B," the sheriff should ensure that the information was not obtained and is not maintained pursuant to any provision of law enacted on or after October 1, 1990.

In summary, the information submitted as Exhibit "A" is excepted from public disclosure under section 552.108(a)(1) of the Government Code, except for the basic information that the sheriff must release in accordance with section 552.108(c). Exhibit "B" contains motor vehicle record information that must be withheld in accordance with section 552.130 and social security number information that may be confidential under section 552.101 in conjunction with federal law. Information that is not excepted from disclosure under sections 552.101, 552.108, or 552.130 must be released. As we are able to make a determination under these exceptions to disclosure, we need not consider your claim under section 552.103.²

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the

²We note, however, that a successful claim under section 552.103 generally does not except from disclosure the same basic information that must be released under section 552.108(c). See Open Records Decision Nos. 597 (1991), 362 (1983).

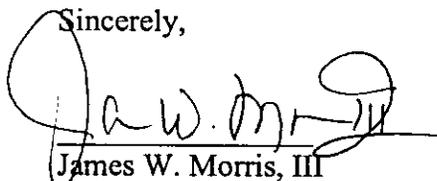
governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to the General Services Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/seg

Ref: ID# 141464

Encl. Submitted documents

cc: Ms. Deborah Stover
1616 Guadalupe, Room 102
Austin, Texas 78701
(w/o enclosures)