



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 9, 2006

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips
Conroe, Texas 77301

OR2006-00287

Dear Mr. Walker:

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# 239982.

The Montgomery County Sheriff's Department (the "department") received a request for the arrest records and all offense reports made against the requestor since January 2000. You state that the department will release some of the requested information to the requestor, but claim that the remaining requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, 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* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that offense report numbers 01A018446 and 05A011943 relate directly to pending criminal prosecutions. Based upon this representation and our review, we agree that section 552.108(a)(1) is applicable to offense report numbers 01A018446 and 05A011943. *See 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.*, 536 S.W.2d 559 (Tex. 1976) (*per curiam*) (court delineates law enforcement interests that are present in active cases).

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Basic information includes a detailed description of the offense as well as the identity and description of the complainant, such as the name, sex, and physical description of the complainant. *Houston Chronicle*, 531 S.W.2d 177; Open Records Decision No. 127 at 3-4 (1976). We note, however, that basic information does not include a complainant's address or telephone number. *Id.* Thus, with the exception of the basic information, the department may withhold offense report numbers 01A018446 and 05A011943 from disclosure based on section 552.108(a)(1).¹ We note that the department has the discretion to release all or part of the submitted information that is not otherwise confidential by law.² Gov't Code § 552.007.

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, upon receiving this ruling, the governmental body

¹ As our ruling is dispositive, we need not address your remaining claim.

² A portion of the information being released contains a social security number that is not subject to release to the general public. See Gov't Code § 552.352. However, the requestor in this instance has a special right of access to his own social security number. Gov't Code § 552.023. Because some of the information is confidential with respect to the general public, if the department receives a future request for this information from an individual other than the requestor or the requestor's authorized representative, the department should again seek our decision.

will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Hadassah Schloss at the Office of the Attorney General 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,



Lisa V. Cubriel
Assistant Attorney General
Open Records Division

LVC/segh

Ref: ID# 239982

Enc: Submitted documents

c: Mr. Michael E. Burliss, Jr.
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(w/o enclosures)