



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 24, 2006

Ms. Bonnie Lee Goldstein  
Bonnie Lee Goldstein P.C.  
P. O. Box 140940  
Dallas, Texas 75214-0940

OR2006-05455

Dear Ms. Goldstein:

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# 250167.

The City of Italy (the "city"), which you represent, received two requests from different requestors for information pertaining to a specified incident.<sup>1</sup> You state that the city will release some of the requested information. You argue that a portion of the submitted information is not subject to the Act. You also claim that the submitted 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.

First, we understand you to assert that the submitted citations are not subject to the Act because they are records of the judiciary. To the extent the submitted citations are records of the municipal court, these citations are records of the judiciary and are not subject to the Act. *See* Gov't Code §§ 552.003(1)(A), (B) (definition of "governmental body" under Act specifically excludes the judiciary), .021 (Act generally requires disclosure of information maintained by "governmental body"). Thus, if the submitted citations are maintained solely by the municipal court, they are not subject to release under the Act and need not be released

---

<sup>1</sup>You also inform us that the city received a third request for this information from the Texas Education Agency ("TEA"). You explain that the city will provide the requested information to TEA because TEA has a statutory right of access to this information. We note that, even if the requested information includes some information to which TEA does not specifically have a statutory right of access, such information may still be transferred between the city and TEA without waiving exceptions to the public disclosure of that information or affecting its confidentiality on the basis of a recognized need to maintain an unrestricted flow of information between governmental bodies. *See* Attorney General Opinions H-836 (1976), H-242 (1974), M-713 (1970); Open Records Decision Nos. 655, 414 (1984). Based on your representation that the city is releasing all of the requested information to TEA, and because such release does not waive or otherwise affect the city's arguments against disclosure with respect to the other two requests for this information, we do not address TEA's request in this ruling.

in response to the present request. However, to the extent copies of the submitted citations are maintained elsewhere by the city, such as by the city's police department, they are subject to the Act and may only be withheld if an exception to disclosure under the Act applies as described below.

Next, we note that a "warning of rights" form has been filed with a court. Documents filed with a court are generally a matter of public record under section 552.022(a)(17) of the Government Code and may not be withheld from disclosure unless confidential under other law. *See* Gov't Code § 552.022(a)(17); *see also* *Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54 (Tex. 1992) (documents filed with court are public documents and must be released). Although you assert this information is excepted under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions under the Act and are not other laws that make information confidential for purposes of section 552.022. *See* *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n. 5 (2000) (discretionary exceptions generally). Thus, the city must release this court-filed information, which we have marked, pursuant to section 552.022(a)(17).

We next address your claim under section 552.108 of the Government Code with respect to the remaining submitted information. Section 552.108(a) 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." 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), (b)(1), .301(e)(1)(A); *see also* *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a criminal case that "is pending the review and acceptance of charges by the [Ellis] County and District Attorney[.]" Based upon this representation, we conclude that the release of the information at issue 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), *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).

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*. Thus, with the exception of the basic front page offense and arrest information, the city may withhold the remaining submitted information from disclosure based on section 552.108(a)(1).<sup>2</sup>

---

<sup>2</sup>As we reach this conclusion, we need not address your remaining arguments against disclosure, except to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

Lastly, we note that section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act. Therefore, the arrestee’s social security number must be withheld pursuant to section 552.147.<sup>3</sup>

In summary, if the submitted citations are maintained solely by the municipal court, they are not subject to release under the Act and need not be released in response to the present request. However, to the extent copies of the submitted citations are maintained elsewhere by the city, they are subject to the Act and may only be withheld if an exception to disclosure under the Act applies. The city must release the court-filed information that we have marked pursuant to section 552.022(a)(17) of the Government Code. Other than basic information, the city may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code. The arrestee’s social security number must be withheld under section 552.147 of the Government Code. The remaining basic information must be released to the requestors.

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 ten 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 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).

---

<sup>3</sup>We note that 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.

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); *Tex. 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 ten calendar days of the date of this ruling.

Sincerely,



Robert B. Rapfogel  
Assistant Attorney General  
Open Records Division

RBR/eb

Ref: ID# 250167

Enc. Submitted documents

c: Mr. Aaron Itson  
Neotribune, Inc.  
177 Dome Park Place  
Italy, Texas 76651  
(w/o enclosures)

Mr. Richard Childers  
331 White Rock Road  
Italy, Texas 76651  
(w/o enclosures)