



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 4, 2007

Ms. Katie Lentz
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2007-00108

Dear Ms. Lentz:

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# 272009.

The Williamson County Sheriff's Office (the "sheriff") received a request for information involving two named individuals and a specified address. You claim that the requested information is excepted from disclosure under sections 552.108, 552.130, 552.136, and 552.147 of the Government Code. We have considered the exceptions you claim and have reviewed the information you submitted.

We first note that some of the information submitted as Exhibit C is subject to section 552.022 of the Government Code. Section 552.022 provides for the required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although you seek to withhold the information that is subject to section 552.022 under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Gov't Code § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the sheriff may not withhold any of the information that is subject to section 552.022, which we have marked, under section 552.108.

We note, however, that the marked information includes Texas driver's license information. Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state. *See* Gov't Code § 552.130(a)(1). The sheriff must withhold the Texas driver's license number that we have marked under section 552.130.

The information that is subject to section 552.022 also includes a social security number. 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.¹ Gov't Code § 552.147(a). The social security number that we have marked must be withheld under section 552.147.

Next, we address your claims under section 552.108 of the Government Code. Section 552.108(a)(1) 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 that the remaining information in Exhibit C and the information in Exhibit D is related to ongoing investigations. Based on your representation, we conclude that section 552.108(a)(1) is applicable to that information. *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).

Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). You state that the information in Exhibit B concerns an investigation that did not result in a conviction or a deferred adjudication. Based on your representation, we conclude that section 552.108(a)(2) is applicable to Exhibit B.

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*. The sheriff must release basic information, including detailed descriptions of the offenses, even if the information does not literally appear on the front page of an offense or arrest report. *See Houston Chronicle*, 531

¹We also 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.

S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The sheriff may withhold the remaining information in Exhibits C and D under section 552.108(a)(1) and the remaining information in Exhibit B under section 552.108(a)(2).

In summary: (1) except for the marked Texas driver's license and social security numbers that must be withheld under sections 552.130 and 552.147 of the Government Code, the sheriff must release the marked information that is subject to section 552.022 of the Government Code; and (2) the sheriff may withhold the remaining information in Exhibit C and the information in Exhibits D and B under section 552.108 of the Government Code, except for the basic information that must be released under section 552.108(c). As we are able to make these determinations, we need not address your claim under section 552.136 of the Government Code.

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).

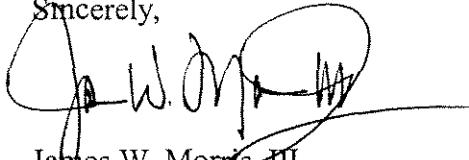
If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records 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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large, looping initial "J" and a long horizontal line extending to the right.

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

JWM/vh

Ref: ID# 272009

Enc: Submitted documents

c: Ms. Ricki Lynn Gardner
3004 Cottonweed Trail
Cedar Park, Texas 78613
(w/o enclosures)