



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 5, 2007

Mr. David K. Walker
Montgomery County Attorney
207 West Phillips 1st Floor
Conroe, Texas 77301

OR2007-07001

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# 284599.

The Montgomery County Sheriff's Department (the "sheriff") received a request for information related to an incident involving the requestor's client. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception 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 . . . 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). We note that the submitted information includes citations. Because copies of the citations have been provided to the individuals who were cited, we find that release of the citations will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the sheriff may not withhold the citations under section 552.108(a)(1) and must release those documents, which we have marked. Based on your representation that the rest of the submitted information is related to a pending criminal case, we conclude that section 552.108(a)(1) is applicable to

the remaining 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).

We note that 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*. See 531 S.W.2d at 186-88. The sheriff must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The sheriff may withhold the rest of the submitted information, with the exception of the citations, under section 552.108(a)(1).

We note that the remaining information includes Texas motor vehicle record information. Section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state. See Gov’t Code § 552.130(a)(1)-(2). However, section 552.130 protects personal privacy. In this instance, the requestor identifies herself as an attorney for the individual to whom some of the submitted Texas motor vehicle record information belongs. As such, this requestor has a right of access to her client’s Texas motor vehicle record information under section 552.023 of the Government Code. See Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual).¹ Therefore, the Texas motor vehicle record information of the requestor’s client may not be withheld in this instance under section 552.130. However, the remaining Texas motor vehicle record information, which we have marked, must withhold under this exception.

In summary, other than basic information and the submitted citations, the submitted information may be withheld under section 552.108(a)(1) of the Government code. The sheriff must withhold the Texas motor vehicle record information that we have marked. The remaining information must be released to the requestor.

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

¹Section 552.023(a) provides that “[a] person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person’s privacy interests.” Gov’t Code § 552.023(a).

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,



L. Joseph James
Assistant Attorney General
Open Records Division

LJJ/eeg

Ref: ID# 284599

Enc. Submitted documents

c: Ms. Lori A. Kohnen
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(w/o enclosures)