



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 28, 2008

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

OR2008-05649

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# 308840.

The Williamson County Sheriff's Office (the "sheriff") received a request for any videos or other recordings relating to a specified arrest, any reports related to a specified address, and the location or service call history for a specified address. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have only submitted reports and location or service call history information related to the specified address. Therefore, to the extent that responsive videos or other recordings relating to the specified arrest exist, we assume that they have been released. If such information has not been released, then it must be released at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we address your assertion that report number 97-08-007765J is excepted in its entirety under section 552.101 of the Government code in conjunction with section 58.007 of the Family Code. Section 552.101 excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as

section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997 are confidential under section 58.007. *See* Fam. Code § 58.007(c). Juvenile law enforcement records pertaining to conduct occurring before January 1, 1996 are generally confidential under former section 51.14(d) of the Family Code. Act of May 27, 1995, 74th Leg., R.S., ch. 262, § 100, 1995 Tex. Gen. Laws 2517, 2591 (Vernon). However, law enforcement records pertaining to juvenile conduct that occurred between January 1, 1996, and September 1, 1997, are not subject to the confidentiality provisions of either the former section 51.14(d) or the current section 58.007 of the Family Code. In this instance, report number 97-08-00765J pertains to juvenile conduct that occurred between January 1, 1996 and September 1, 1997, and is therefore not confidential under either the former section 51.14(d) or the current section 58.007 of the Family Code. Thus, the report number 97-08-00765J may not be withheld under section 552.101 on this basis.

However, you also assert that report number 97-08-00765J and Exhibit B are excepted from disclosure under section 552.108 of the Government Code. Section 552.108 provides in pertinent part as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(2) 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)(1)-(2). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Subsection 552.108(a)(1) generally protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. A governmental body that claims section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A).

You state that Exhibit B relates to a criminal case that is currently pending in a Williamson County Court of Law. Based on your representation and our review, we conclude that the release of this information 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.*, 536 S.W.2d 559 (Tex. 1976) (court

delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable to Exhibit B.

Next, you state that report number 97-08-00765J pertains to a criminal investigation where no arrests were made and no criminal charges were pursued. Accordingly, you state that report number 97-08-00765J pertains to a criminal investigation that concluded in final result other than conviction or deferred adjudication. Based on your representations and our review, we agree that section 552.108(a)(2) is applicable to report number 97-08-00765J.

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and it includes the names of all arresting and investigating officers. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). In this instance, however, you argue that the portion of the basic information you have marked in report number 97-08-00765J must be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.101 also encompasses the doctrine of common-law privacy. In Open Records Decision No. 169 (1977), this office recognized that information that would ordinarily be subject to disclosure may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy on a showing of "special circumstances." This office considers such "special circumstances" to refer to a very narrow set of situations in which release of the information at issue would likely cause someone to face "an imminent threat of physical danger." Open Records Decision No. 169 at 6. "Special circumstances" do not include "a generalized and speculative fear of harassment or retribution." *Id.* After reviewing your arguments, you have failed to demonstrate special circumstances sufficient to justify withholding the basic information you marked in report number 97-08-00765J from public disclosure on that basis. Therefore, sheriff must release all of the basic information in Exhibit B and report number 97-08-00765J to the requestor. The sheriff may withhold the remaining information in Exhibit B under section 552.108(a)(1) and the remaining information in report number 97-08-00765J under section 552.108(a)(2).¹

Next, report number C07-03-5378 contains Texas driver's license numbers. Section 552.130 of the Government Code provides in relevant part:

(a) Information is excepted from the requirement of Section 552.021 if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state.

¹As our ruling is dispositive as to the information in Exhibit B and report number 97-08-00765J, we need not address your remaining argument against disclosure of this information.

Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas driver's license numbers you have marked in report number C07-03-5378 under section 552.130 of the Government Code.

In summary, with the exception of basic information, the sheriff may generally withhold Exhibit B and report number 97-08-00765J under section 552.108 of the Government Code.² The sheriff must withhold the Texas driver's license numbers it has marked in report number C07-03-5378 under section 552.130 of the Government Code. The remaining information must be released to the requestor.³

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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 challenge that decision by suing the governmental

²We note that you have the discretion to release all or part of the remaining information in Exhibit B and report number 97-08-00765J that is not otherwise confidential by law. Gov't Code § 552.007.

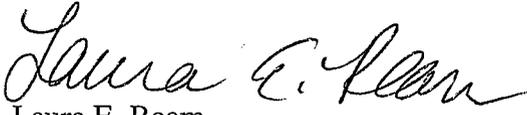
³We note, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

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,



Laura E. Ream
Assistant Attorney General
Open Records Division

LER/jb

Ref: ID# 308840

Enc. Submitted documents

c: Mr. Keith S. Leuty
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(w/o enclosures)