



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 20, 2009

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2009-05167

Dear Ms. Sandoval-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# 340422.

The El Paso Police Department (the "department") received a request for information concerning a specified incident. You claim that the requested information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming 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. You state that the submitted information relates to a criminal investigation that involved three suspects, two of whom were convicted. You also explain that the charges against the other suspect were dismissed, and thus did not result in a conviction or deferred adjudication. We understand you to contend that the information relating to the convicted individuals and the individual against whom the charges were dismissed is so intertwined that it cannot be easily separated and that release of information relating to the convicted individuals would reveal information relating to the individual against whom the charges were dismissed. Based on your representations

and our review, we agree that the information cannot be separated. Accordingly, we conclude that section 552.108(a)(2) is applicable to the submitted information.

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 Publishing 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), and includes the social security number of an arrestee but not Texas motor vehicle record information. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). The department must release basic information even if the information does not literally appear on the front page of an offense or arrest report. See ORD127 at 3-4. Thus, with the exception of the basic front page offense and arrest information, the department may withhold the submitted information from disclosure based on section 552.108(a)(2) of the Government Code.

You seek to withhold the social security numbers of arrestees from the basic information. 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. Therefore, the department may withhold the social security numbers of arrestees you have marked pursuant to section 552.147.

In summary, with the exception of the basic front page offense and arrest information, the department may withhold the submitted information from disclosure based on section 552.108(a)(2) of the Government Code. The department may withhold the marked social security numbers of arrestees pursuant to section 552.147 of the Government Code. The remaining basic information must be released. As our ruling is dispositive, we need not address your remaining argument against disclosure.

This letter ruling is limited to the particular information 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 information or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

¹We 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 officer under the Act.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "C. Nettles". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 340422

Enc. Submitted documents

c: Requestor
(w/o enclosures)