



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 7, 2009

Ms. Holly C. Lytle  
Assistant County Attorney  
El Paso County  
500 East San Antonio, Room 503  
El Paso, Texas 79901

OR2009-06134

Dear Ms. Lytle:

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# 346896.

The El Paso County Sheriff's Office (the "sheriff") received a request for all documents pertaining to a specified arrest. You state that you will release some of the requested information. You claim that the remaining information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us that the submitted records contain fingerprint information that is governed by chapter 560 of the Government Code. Chapter 560 provides that a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov't Code §§ 560.001 (defining "biometric identifier" to include fingerprints), .002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), .003 (providing that biometric identifiers in possession of governmental body are exempt from disclosure under Act). Section 560.002 of the Government Code provides, however, that "[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]" *Id.* § 560.002(1)(A). In this instance, the requestor is the authorized representative of the individual to whom these fingerprints belong, and the requestor has a right of access to the fingerprints. *See id.*

§ 560.002(1); *id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). Accordingly, we find that the sheriff may not withhold the fingerprint information but must release it to the requestor pursuant to section 560.002.

Section 552.108(a)(1) of the Government Code 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." Gov't Code § 552.108(a)(1). 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 remaining information relates to a pending criminal prosecution. You also state, and provide a letter from the district attorney indicating, that the district attorney objects to release of the information at issue. Based upon these representations, we conclude that the release of the submitted 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. per curiam*, 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 the remaining information.

However, we note, and you acknowledge, 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*. *See* 531 S.W.2d 177. Thus, with the exception of basic information, which you state you are willing to release, the sheriff may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

In summary, the sheriff must release the fingerprint information pursuant to section 560.002 of the Government Code.<sup>2</sup> The sheriff may, with the exception of basic information, withhold the remaining information pursuant to section 552.108(a)(1) of the Government Code.

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that basic information is generally not excepted from public disclosure under section 552.103. *See* Open Records Decision No. 597 (1991).

<sup>2</sup>We note that because the requestor, as the named individual's authorized representative, has a special right of access to this information in this instance, the sheriff must again seek a decision from this office if it receives another request for the same information from another requestor.

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

Sincerely,



Travis Tidmore  
Assistant Attorney General  
Open Records Division

TT/sdk

Ref: ID# 346896

Enc. Submitted documents

c: Requestor  
(w/o enclosures)