ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2009

Mr. Jaime S. French
Fulbright & Jaworski L.L.P.
300 Convent Street Suite 2200
San Antonio, Texas 78205-3792

OR2009-13147

Dear Mr. French:

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# 360234.

The Schertz Municipal Court (the "court") and the Schertz Police Department (the "department"), which you represent, received separate requests for information relating to a citation issued to the requestor. You contend that any responsive information maintained by the court is not subject to disclosure under the Act. You claim that information maintained by the department is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the information you submitted.

First, we address your contention that information maintained by the court is not subject to the Act. Section 552.003(b) of the Government Code excludes the judiciary from the Act. Therefore, the Act neither authorizes information held by the judiciary to be withheld nor requires that it be disclosed. *See* Open Records Decision No. 25 (1974). Accordingly, any responsive information maintained by the court is not subject to public disclosure under the Act, and the Open Records Division does not have the authority to rule on records maintained by the judiciary. *See* Gov't Code § 552.0035 (access to information maintained

by or for judiciary is governed by rules adopted by supreme court); Tex. R. Jud. Admin. 12 (public access to judicial records).[1]

Next, we address your claim under section 552.108 of the Government Code for information maintained by the department. 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[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 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 submitted information is related to a pending criminal prosecution. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the submitted 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, however, that the submitted information includes a citation. Because a copy of a citation is provided to an individual who is cited, we find that release of the submitted citation will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the citation may not be withheld under section 552.108(a)(1) and must be released.

We also note that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information and the citation, the department may withhold the submitted information under section 552.108(a)(1).

In summary: (1) any responsive information maintained by the court is not subject to public disclosure under the Act; and (2) except for basic information and the citation, which must

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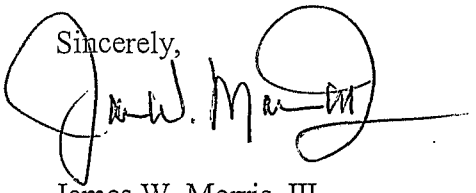
[1]We note that records of the judiciary also may be public under other sources of law. *See* Gov't Code § 29.007(d)(4) (complaints filed with municipal court clerk); *id.* § 29.007(f) (municipal court clerks shall perform duties prescribed by law for county court clerk); Local Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order); *see also Star-Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released); Attorney General Opinions DM-166 (1992) at 2-3 (public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974).

be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.[2]

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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



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

JWM/cc

Ref: ID# 360234

Enc: Submitted information

c: Requestor
(w/o enclosures)

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[2]We note that the citation contains information that the department would be required to withhold from the public to protect this requestor's privacy. The requestor has a right of access, however, to his own private 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 requests information concerning himself). Should the department receive another request for these same records from a person who would not have a right of access to this requestor's private information, the department should resubmit these records and request another decision. *See* Gov't Code §§ 552.301(a), .302.