



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 22, 2009

Mr. Charles Brancaccio
Assistant County Attorney
Johnson County Attorney's Office
204 South Buffalo Avenue Suite 410
Cleburne, Texas 76033-5404

OR2009-13347

Dear Mr. Brancaccio:

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# 355932.

The Johnson County Sheriff's Office (the "sheriff") received a request for nine categories of information relating to a specified citation issued to a named individual. You state that the sheriff has no information that is responsive to parts 1, 2, and 5 of the request.¹ You have submitted information that the sheriff seeks to withhold under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.²

Section 552.108 of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

¹We note that the Act does not require a governmental body to release information that did not exist when it received a request or create responsive information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

²You state that a social security number has been redacted from one of the submitted documents. We 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 office under the Act.

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 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 and our review of the information at issue, we find that section 552.108(a)(1) is applicable to most of 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, which we have marked. Because a copy of a citation is provided to the individual who is cited, we find that the 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, except for the citation, the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code. The citation must be released.³ As we are able to make these determinations, we need not address your claim under section 552.103 of the Government Code.⁴

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.

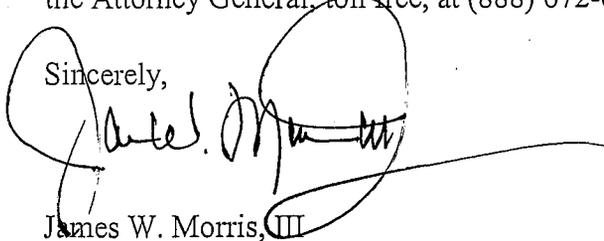
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney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

³We note that the citation contains Texas driver’s license and motor vehicle information that the sheriff would ordinarily be required to withhold under section 552.130 of the Government Code. You inform us, however, that the requestor is an attorney for the individual to whom the information in question pertains. Therefore, because section 552.130 protects personal privacy, the requestor has a right of access to his client’s driver’s license and motor vehicle 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 sheriff receive another request for these same records from a person who would not have a right of access to the private information involved, the sheriff should resubmit these records and request another decision. *See* Gov’t Code §§ 552.301(a), .302.

⁴We note that information may not be withheld under section 552.103 if the opposing party in litigation has already seen or otherwise had access to the information. *See* Open Records Decision Nos. 349 (1982), 320 (1982).

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III", is written over a circular stamp. The signature is fluid and cursive.

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

JWM/cc

Ref: ID# 355932

Enc: Submitted documents

c: Requestor
(w/o enclosures)