



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 29, 2010

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County Attorney's Office  
301 Jackson Street Suite 728  
Richmond, Texas 77469

OR2010-06185

Dear Ms. Rangel:

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# 382969.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information relating to a specified incident and two named individuals. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.

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 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 release of the submitted information would interfere with a pending criminal case.

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<sup>1</sup>We understand that the sheriff is not in possession of any other information that is responsive to this request. We 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 dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

Based on your representations, 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 criminal trespass warning. Because a copy of that document was provided to the person who is the subject of the warning, we find that the release of the criminal trespass warning will not interfere with the detection, investigation, or prosecution of crime. See Gov't Code § 552.108(a)(1). We therefore conclude that the criminal trespass warning, which we have marked, may not be withheld under section 552.108.

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. The sheriff must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Except for the criminal trespass warning, the sheriff may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code.

Lastly, we note that the criminal trespass warning contains a Texas driver's license number. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state.<sup>2</sup> See Gov't Code § 552.130(a)(1). The Texas driver's license number we have marked must be withheld under section 552.130.<sup>3</sup>

In summary: (1) the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code, except for the marked trespass warning and the basic information that must be released under section 552.108(c); and (2) except for the marked Texas driver's license number, which must be withheld under section 552.130 of the Government Code, the trespass warning must be released.

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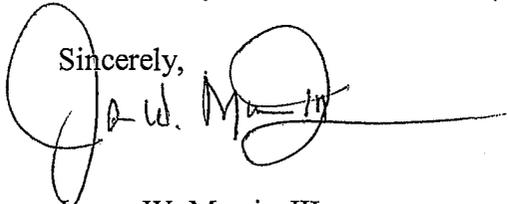
<sup>2</sup>This office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. See Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

<sup>3</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130, without the necessity of requesting an attorney general decision.

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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a long horizontal flourish extending to the right. The signature is written over the word "Sincerely,".

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

JWM/rl

Ref: ID# 382969

Enc: Submitted information

c: Requestor  
(w/o enclosures)

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