



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 19, 2010

Ms. Jo Spurger
Somervell County Sheriffs Department
750 East Gibbs Boulevard
Glen Rose, Texas 76043

OR2010-10690

Dear Ms. Spurger:

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#387140.

The Somervell County Sheriff's Department (the "department") received a request for the arrest sheet and mug shot for a named individual. You claim that portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the department has redacted portions of the submitted information. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. Gov't Code §§ 552.301(a), 301(e)(1)(D). 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 Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. In addition, we note section 552.147(b) of the Government Code generally 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. However, you do not assert, nor does our review of our records indicate, that the department has been authorized to withhold the other types of information it has redacted without seeking a ruling from this office. See Gov't Code § 552.301(a); Open Records Decision No. 673 (2000). As such, these types of information must be submitted in a manner that

¹Although you argue Open Records Decision No. 127 (1976), we note that ORD 127 summarizes basic and arrest information deemed 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). Therefore, we understand you to assert section 552.108(a)(1) of the Government Code.

enables this office to determine whether the information comes within the scope of an exception to disclosure. In this instance, we can discern the nature of the redacted information; thus, being deprived of that information does not inhibit our ability to make a ruling. In the future, however, the department should refrain from redacting information that it submits to this office in seeking an open records ruling, unless it is otherwise authorized to do so. Failure to do so may result in the presumption that the redacted information is public. *See* Gov't Code § 552.302.

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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to an active criminal investigation. Based on this representation, we conclude the release of the information you have marked in the arrest report and the submitted mug shot 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the department may withhold the information you have marked in the arrest report and the submitted mug shot under section 552.108(a)(1) of the Government Code.

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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#387140

Enc. Submitted documents

c: Requestor
(w/o enclosures)