



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 26, 2011

Mr. David. K. Walker
County Attorney
Montgomery County
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2011-07485

Dear Mr. Walker:

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# 418737 (ORR 2011-1195).

The Montgomery County Sheriff's Office (the "sheriff") received a request for the report related to a specified incident. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Section 552.108 of the Government Code provides, in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

¹Although you also raise section 552.101 of the Government Code, you make no argument to support this exception. Therefore, we assume you have withdrawn your claim that this exception applies to the submitted information.

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 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 a criminal investigation that is inactive pending the arrest of the suspect. However, we note the submitted report involves an allegation of aggravated assault that occurred on October 18, 2003. The statute of limitations for this offense is three years. *See* Pen. Code § 22.02(b) (aggravated assault is felony of second degree); Crim. Proc. Code art. 12.01(7) (providing an indictment or information on felony not listed in articles 12.01(1)-(6) may be presented within three years from the date of the commission of the offense, and not afterward). More than three years have elapsed since October 18, 2003. You have not informed this office that a prosecution of this case was pending when the sheriff received this request for information. Furthermore, you have not otherwise explained how release of the information at issue would interfere with law enforcement or crime prevention. We therefore conclude you have failed to establish section 552.108(a)(1) is applicable to the submitted information, and it may not be withheld on this basis.

We note the submitted information includes Texas motor vehicle record information subject to section 552.130 of the Government Code.² Section 552.130 excepts from public disclosure information that relates to a motor vehicle operator's license, driver's license, permit, motor vehicle title or registration issued by a Texas agency. Gov't Code § 552.130(a)(1). Accordingly, the sheriff must withhold the Texas motor vehicle information we have marked under section 552.130 of the Government Code.³ The remaining information must be released.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

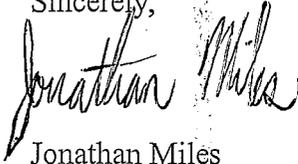
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

³We note Open Records Decision No. 684 (2009) authorizes a governmental body to redact Texas driver's license and license plate numbers under section 552.130 of the Government Code without the necessity of requesting an attorney general decision.

⁴We note the remaining information also contains social security numbers. 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. Gov't Code § 552.147(b).

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 418737

Enc. Submitted documents

c: Requestor
(w/o enclosures)