



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 1, 2011

Deputy Danie Huffman  
Parker County Sheriff's Office  
129 Hogle Street  
Weatherford, Texas 76086

OR2011-11035

Dear Deputy Huffman:

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# 425861.

The Parker County Sheriff's Office (the "sheriff") received a request for the records, documents, and recordings related to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor specifically excluded criminal background histories and the names of undercover officers from his request. Accordingly, this information is not responsive to the request for information. This decision does not address the public availability of the non-responsive information and that information need not be released in response to the present request.<sup>1</sup>

Next, some of the submitted information is subject to section 552.022 of the Government Code, which provides in pertinent part:

(a) Without limiting the amount or kind of information that is public information under this chapter, the following categories of information are

---

<sup>1</sup>We need not address your arguments against disclosure of the non-responsive information.

public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). The submitted information includes two search warrants signed by a magistrate and two magistrate's warnings that are subject to section 552.022(a)(17). Although you seek to withhold these records under sections 552.103 and 552.108 of the Government Code, these sections are discretionary exceptions that protect a governmental body's interest and are, therefore, not "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the sheriff may not withhold the search warrants and magistrate's warnings, which we marked, under section 552.103 or section 552.108 of the Government Code. As you raise no further exceptions to the disclosure of these records, they must be released pursuant to section 552.022(a)(17). However, we will consider your arguments under sections 552.103 and 552.108 for the information not subject to section 552.022(a)(1).

You claim the remaining information you marked is protected by section 552.108(a)(1) of the Government Code, which 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 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 inform us this information pertains to an ongoing investigation and anticipated prosecution. Based on your representations and our review, we conclude the release of the remaining marked information would interfere with the investigation and prosecution of this crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note you have marked the entire narrative portions of the submitted reports under section 552.108(a)(1) and thus the information being released does not contain information sufficient to satisfy the requirement that a detailed description of the offense be released as basic information. *See id.* Accordingly, the sheriff must release a sufficient portion of the

narrative portion of the reports to encompass a detailed description of the offense pursuant to *Houston Chronicle*. Basic information also includes an arrestee's social security number. *See id.* You have marked the social security numbers of the arrestees under 552.108(a)(1). Accordingly, the sheriff may not withhold this information under that section. Therefore, with the exception of a detailed description of the offense, the arrestees' social security numbers, and the marked search warrants and magistrate's warnings, the sheriff may withhold the information you marked under section 552.108(a)(1).<sup>2</sup>

We note, however, 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 an attorney general decision under the Act. Gov't Code § 552.147(b). In this instance, the requestor may be the authorized representative of the arrestee identified in the request for information. Because section 552.147 protects personal privacy, the requestor has a right of access to his client's private information under section 552.023 of the Government Code. *See id.* § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide her with information concerning herself). Therefore, if the requestor is the authorized representative of the arrestee identified in the request, then his client's social security number must be released. If the requestor does not represent the arrestee, this social security number and the remaining social security numbers may be withheld under section 552.147 of the Government Code.

In summary, with the exception of a detailed description of the offense, the arrestees' social security numbers, and the marked search warrants and magistrate's warnings, the sheriff may withhold the information you marked under section 552.108(a)(1). If the requestor is not the authorized representative of the arrestee identified in the request, then this arrestee's social security number and the remaining social security numbers may be withheld under section 552.147 of the Government Code. If the requestor is the arrestee's authorized representative, his social security number must be released with a detailed description of the offense and the marked search warrants and magistrate's warnings.

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.

---

<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure, except to note the basic information held to be public in *Houston Chronicle* is generally not excepted from disclosure under section 552.103. Open Records Decision No. 597 (1991).

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 'KLC', with a long horizontal stroke extending to the right.

Kenneth Leland Conyer  
Assistant Attorney General  
Open Records Division

KLC/eb

Ref: ID# 425861

Enc. Submitted documents

c: Requestor  
(w/o enclosures)