



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 4, 2013

Mr. JD Lambright
Montgomery County Attorney
207 West Phillips Suite 100
Conroe, Texas 77301

OR2013-01951

Dear Mr. Lambright:

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# 482364 (No. 2013-0074).

The Montgomery County Sheriff's Department (the "department") received a request for information related to a specified case number. You inform us the department will withhold driver's license information pursuant to section 552.130 of the Government Code and social security numbers pursuant to section 552.147 of the Government Code.¹ You claim some of the remaining requested information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the exception you claim and reviewed the information you submitted.

¹Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of requesting a decision from this office. *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general, and governmental body withholding information pursuant to section 552.130(c) must provide notice to requestor). 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 requesting a decision.

²Although you also claim section 552.101 of the Government Code, you have submitted no arguments in support of the applicability of that exception. Therefore, this ruling does not address section 552.101. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

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[.]” *Id.* § 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 assert, and have provided an affidavit from the department stating, release of the information the department seeks to withhold would interfere with a pending criminal prosecution. Based on your representation and the department’s affidavit, we conclude section 552.108(a)(1) is generally applicable to the information at issue. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note the information at issue includes a citation, which we have marked. Because a copy of a citation is provided to a person who is cited, we find release of the marked citation will not interfere with the detection, investigation, or prosecution of crime. *See Gov’t Code* § 552.108(a)(1). We therefore conclude the marked citation may not be withheld under section 552.108(a)(1) of the Government Code and must be released.

We also note 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 offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The department must release basic offense and arrest information, even if the information does not literally appear on the front page of an offense or arrest report. Except for basic information and the citation, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.

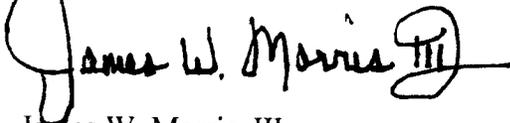
In summary, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code, except for basic information and the citation, which must be released. The department must release the rest of the submitted information.

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "M".

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

JWM/bhf

Ref: ID# 482364

Enc: Submitted documents

c: Requestor
(w/o enclosures)

