



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 12, 2013

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

OR2013-09895

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# 494819 (ORR# 2013-2642).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified address. You claim 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(a) 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: (1) 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(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of

¹Although you also raise section 552.101 of the Government Code, you provide no arguments to support this claim. See Gov't Code § 552.301(e) (governmental body must provide comments stating why exceptions raised should apply to information requested). Accordingly, we do not address your assertion of section 552.101 for the submitted information.

crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

We note the information at issue includes a criminal trespass warning and a citation. Because copies of these documents have been provided to the person who is the subject of the warning and citation, we find their release will not interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). Therefore, the sheriff's office may not withhold the criminal trespass warning or citation, which we have marked, under section 552.108(a)(1).

You state the remaining information relates to an active criminal case. Based upon your representation and our review, we conclude that release of the remaining information 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. 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

As you acknowledge, 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*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic front page offense information, which you state you have released, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

We note a portion of the criminal trespass warning and citation is subject to section 552.130 of the Government Code.² Section 552.130 provides information relating to a motor vehicle operator's or driver's license issued by an agency of Texas or another state or country is excepted from public release. *Gov't Code* § 552.130(a)(1). We find the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code.

In summary, with the exception of the criminal trespass warning, the citation, and the basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the criminal trespass warning and citation, the sheriff's office must withhold the information we have marked within the under section 552.130 of the Government Code.

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).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 494819

Enc. Submitted documents

cc: Requestor
(w/o enclosures)