



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 29, 2014

Mr. JD Lambright
County Attorney
Montgomery County
501 North Thompson, Suite 102
Conroe, Texas 77301

OR2014-01692

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# 516235 (Montgomery County ORR# 2013-7295).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for the police report pertaining to two named individuals who were involved in a specified incident. 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)(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 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 have provided

¹ We note that, although you also raise section 552.101 of the Government Code as an exception to disclosure, you have provided no arguments regarding the applicability of this section. Since you have not submitted arguments concerning section 552.101, we assume that the sheriff's office no longer asserts it. *See* Gov't Code §§ 552.301(b), (e), .302.

an affidavit from the Montgomery County District Attorney's Office stating that release of the information would hamper the pending prosecution of the offenses. *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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is generally applicable in this instance. We note, however, that the information at issue includes trespass warnings which were issued at the time of the incident. The sheriff's office provided copies of these forms to the arrestees. You have not explained how releasing this information, which has already been seen by the arrestees, would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code § 552.108(a)(1)*. Accordingly, the trespass warnings, which we have marked, may not be withheld under section 552.108.

Additionally, as you acknowledge, section 552.108 does not except from disclosure basic information about a crime. *Gov't Code § 552.108(c)*. Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. This information includes, but is not limited to, a sufficient portion of the narrative to include a detailed description of the offense. *See Open Records Decision No. 127 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

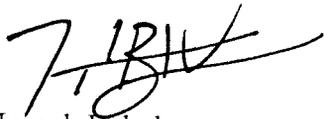
In summary, the sheriff's office must release the trespass warnings which we have marked.² With the exception of basic information, which must also be released, the sheriff's office may withhold the remaining information pursuant to section 552.108(a)(1) of the Government Code.

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.

²We note the information being released includes driver's license information to which the requestor has a right of access pursuant to section 552.023 of the Government Code. *See Gov't Code § 552.023(a)*; *Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual requests information concerning himself). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See Gov't Code § 552.130(c)*. If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Therefore, if the sheriff's office receives another request for the same information from a person who would not have a right of access to the present requestor's private information, section 552.130(c) authorizes the sheriff's office to redact this requestor's driver's license information without requesting another ruling.

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,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/eb

Ref: ID# 516235

Enc. Submitted documents

c: Requestor
(w/o enclosures)

