



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 2, 2014

Mr. John K. McKinney, Jr.
Assistant County Attorney
Montgomery County
501 North Thompson, Suite 102
Conroe, Texas 77301

OR2014-09322

Dear Mr. McKinney:

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# 529707 (ORR File No. 14PIA00206).

The Montgomery County Sheriff's Office (the "sheriff's office") received a request for information related to a specified incident. You state the sheriff's office has released some of the requested information to the requestor. 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 representative sample of information.²

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

¹Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. See Gov't Code §§ 552.301, .302.

²We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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).

We note that the submitted information includes criminal trespass warnings. Because copies of the warnings were provided to the individuals who were warned, we find release of the warnings 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 warnings under section 552.108(a)(1).

You state the remaining information relates to a pending criminal case and release of the information would interfere with the prosecution of the case. Based on these representations and our review, we find the release of this 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. 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).

As you acknowledge, 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 Houston Chronicle*, 531 S.W.2d at 186-88. The sheriff's office must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. *See Open Records Decision No. 127* at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the criminal trespass warnings and basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1).

We note the criminal trespass warnings contain information subject to section 552.130 of the Government Code.³ Section 552.130 excepts from disclosure information relating to a motor vehicle operator's or driver's license issued by an agency of this state or another state or country. *See Gov't Code* § 552.130(a)(1). The sheriff's office must withhold the information we have marked in the warnings under section 552.130 of the Government Code.

In summary, with the exception of basic information, which you state has been released, and the criminal trespass warnings, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the criminal trespass warnings, the sheriff's office must withhold the information we have marked under section 552.130 of the Government Code.

³The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. *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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 529707

Enc. Submitted documents

c: Requestor
(w/o enclosures)