



March 25, 2002

Ms. Melissa L. Barloco  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002-1700

OR2002-1458

Dear Ms. Barloco:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 160508.

The Harris County Constable Precinct Four (the “county”) received a request for a copy of offense report number 0112151809. You inform us that certain information has been provided to the requestor, but claim that the remaining requested information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a) of the Government Code, in part, excepts from required public 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;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that *did not* result in conviction or deferred adjudication; . . . .

---

<sup>1</sup>You also raised section 552.101 of the Government Code but you made no arguments in support of the applicability of this provision. See Gov’t Code § 552.301(e)(1)(A).

A governmental body claiming an exception from disclosure under section 552.108 must reasonably explain, if the information does not supply the explanation on its face, how and why the exception applies. *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You argue that the requested information is excepted from disclosure under section 552.108(a)(2). Section 552.108(a)(2) protects law enforcement records that pertain to criminal investigations and prosecutions that have concluded in a result other than a criminal conviction or deferred adjudication. However, in this instance, you have provided this office with conflicting information. You state that “no charges have been filed, but the case is still under investigation,” and that “[t]he requested documents . . . relate directly to an investigation that did not result in a conviction or deferred adjudication.” You further state that “this exception to the Act is designed to protect law enforcement interests during the investigation and prosecution of criminal acts.” Because we cannot reconcile this apparent conflict, we are unable to conclude that section 552.108(a)(2) is applicable in this instance. Consequently, the county may not withhold the information from the requestor pursuant to § 552.108(a)(2) of the Government Code. Because you have raised no other exception to required public disclosure, we conclude that the county must release the requested information in its entirety, with the following exception.

The records at issue contain driver’s license numbers. Section 552.130(a)(1) of the Government Code requires the county to withhold “information [that] relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state.” Accordingly, the county must withhold the Texas driver’s license numbers appearing in the submitted information pursuant to section 552.130(a)(1) of the Government Code.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records;

2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Pearle  
Assistant Attorney General  
Open Records Division

MAP/seg

Ref: ID# 160508

Enc. Submitted documents

c: Ms. Virginia Wood  
18215 Water Mill Drive  
Cypress, Texas 77429  
(w/o enclosures)