



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 15, 2003

Ms. Julie Joe  
Assistant County Attorney  
Travis County  
P.O. Box 1748  
Austin, Texas 78767

OR2003-9005

Dear Ms. Joe:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 192712.

The Travis County Sheriff's Office (the "sheriff") received a request for reports related to a specified incident. You state that the sheriff will release a portion of the requested information. However, you claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note that the department has previously received a similar request for information in which you requested an opinion from this office. In response, this office issued Open Records Letter No. 2003-7251 (2003), in which we ruled that the department may withhold certain information under sections 552.101, 552.108, 552.117, 552.1175, and 552.130 of the Government Code. In regard to information in the current request that is identical to the information previously requested and ruled upon by this office, we conclude that, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, you may continue to rely on OR2003-7251 as a previous determination. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, the first type of previous determination exists where requested information is precisely the same information as was

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<sup>1</sup>We assume that 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). Here, we do not address any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

addressed in a prior attorney general ruling, the ruling is addressed to the same governmental body, and the ruling concludes that the information is or is not excepted from disclosure).

In regard to the responsive information that was not subject to our previous ruling, 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.” Generally, 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 Gov’t Code §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal investigation. Based upon this representation, we conclude that the release of the submitted 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, section 552.108 does not except basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 (1976) (listing basic information that must be released from offense report in accordance with *Houston Chronicle*). Thus, with the exception of the basic offense and arrest information, the department may withhold the submitted information from disclosure based on section 552.108. We note that you have the discretion to release all or part of the information at issue that is not otherwise confidential by law. Gov’t Code § 552.007.

In summary, we conclude that: 1) for information that is identical to the information previously requested and ruled upon by this office, you may continue to rely on OR2003-7251 as a previous determination; and 2) with the exception of the basic offense and arrest information, the department may withhold the additional responsive information from disclosure based on section 552.108 of the Government Code. As our ruling is dispositive, we need not address your remaining claimed exceptions.

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 Dep't of Pub. 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,



W. Montgomery Meitler  
Assistant Attorney General  
Open Records Division

WMM/lmt

Ref: ID# 192712

Enc: Submitted documents

c: Mr. L.C. Johnson, Jr.  
P.O. Box 746  
San Augustine, Texas 75972  
(w/o enclosures)