



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 26, 2006

Mr. John A. Scott  
Henderson County District Attorney's Office  
109 West Corsicana Street, Suite 103  
Athens, Texas 75751

OR2006-06731

Dear Mr. Scott:

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# 252984.

The Henderson County District Attorney ("district attorney") received a request from an inmate for "the statements that were signed against me" in a particular case. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

After reviewing the district attorney's arguments, we understand you to raise section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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). 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), 301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us that the submitted information pertains to a case that resulted in a conviction. You then note that this office has found that the identities of complainants and witnesses may be withheld from disclosure under section 552.108 in some limited circumstances. *See* Open Records Decision Nos. 333 (1982) (allowing law enforcement agency to withhold the identity of informants). However, the submitted information relates to witnesses to a crime and not to informants. Further, you state that

release of this information could “harm the prospects of future cooperation between [the witnesses] and the police and/or subject them to harassment[.]” This office has previously determined that, when it can be established from an examination of the facts of a particular case that disclosure of witness identities and statements might subject the witnesses to possible intimidation or harassment, that information may be excepted from disclosure under the predecessor to section 552.108. Open Records Decision Nos. 329 (1982), 313 (1982), 297 (1981), 252 (1980). However, after review of your arguments and the information at issue, we find that the department has not established how the release of the submitted information would subject the witnesses to possible intimidation or harassment. We also find that the department has not reasonably explained how release of this information would interfere with law enforcement. Therefore, you may not withhold the submitted information under section 552.108.

Section 552.130 of the Government Code, excepts from disclosure information relating to a Texas motor vehicle driver’s license and information relating to a Texas motor vehicle title or registration.<sup>1</sup> Gov’t Code § 552.130. The district attorney must withhold the Texas driver’s license numbers we have marked pursuant to section 552.130. The remaining submitted information must be released.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Government Code. If the governmental body fails to do one of these things, 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 Office of the Attorney General 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. 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,

Matthew T. McLain  
Assistant Attorney General  
Open Records Division

MM/eb

Ref: ID# 252984

Enc. Submitted documents

c: Mr. Chad Woods, #1347931  
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(w/o enclosures)