



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 11, 2006

Ms. Katie Lentz
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2006-07362

Dear Ms. Lentz:

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# 253607.

The Williamson County Sheriff's Office (the "sheriff") received a request for information relating to a named individual during a specified time interval. You claim that the requested information is excepted from disclosure under sections 552.103, 552.108, 552.130, and 552.147 of the Government Code. You also assert that some of the requested information is protected from public disclosure by court order. We have considered your arguments and have reviewed the information you submitted.

We initially note that the information submitted as Exhibits B, C, and D falls within the scope of section 552.022 of the Government Code. Section 552.022(a) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, except as provided by Section 552.108[.]" Gov't Code § 552.022(a)(1). In this instance, the submitted information consists of completed investigations made of, for, or by the sheriff. Therefore, the sheriff must release the submitted information under section 552.022(a)(1), unless it is excepted from disclosure under section 552.108 of the Government or expressly confidential under other law.

Although you seek to withhold Exhibit B under section 552.103 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's

interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive Gov't Code § 552.103); Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such, section 552.103 is not other law that makes information confidential for the purposes of section 552.022. Therefore, the sheriff may not withhold any of the information in Exhibit B under section 552.103 of the Government Code.

You also assert that Exhibit B is protected from disclosure by a court order. You have submitted a copy of an order of County Court at Law Number 3, Williamson County, Texas, stating that Exhibit B (report number C04-10-3768) “shall be protected from disclosure.” Section 552.022(b) of the Government Code provides, however, that

[a] court in this state may not order a governmental body or an officer for public information to withhold from public inspection any category of public information described by Subsection (a) [of section 552.022] or to not produce the category of public information for duplication, unless the category of information is expressly made confidential under other law.

Gov't Code § 552.022(b). Thus, because Exhibit B is subject to required public disclosure under section 552.022(a)(1), the sheriff may not withhold any of the information in Exhibit B on the basis of the submitted court order. However, we will consider your claims with respect to Exhibits B, C, D, and E under sections 552.130 and 552.147 of the Government Code, which are confidentiality provisions for the purposes of section 552.022(a). We also will consider your claims with respect to Exhibits C and D under section 552.108 of the Government Code.

Section 552.108 excepts from public disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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.[.]” Gov't Code § 552.108(a)(2). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986). Section 552.108(a)(2) is applicable only if the information in question relates to a concluded case that did not result in a conviction or deferred adjudication. You state that Exhibits C and D relate to closed investigations that did not result in a conviction or deferred adjudication. Based on your representations, we conclude that section 552.108(a)(2) is applicable to Exhibits C and D.

We note that 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing Co.*

v. City of Houston, 531 S.W.2d 177, 186-88 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The sheriff must release basic information with respect to Exhibits C and D, including detailed descriptions of the offenses, 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*). The sheriff may withhold the rest of the information in Exhibits C and D under section 552.108(a)(2) of the Government Code. We note that the sheriff has discretion under section 552.108 to release additional information that is not made confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 177 (1977) (statutory predecessor to Gov't Code § 552.108 did not prohibit release of information).

Next, we address your claim under section 552.130 of the Government Code. This section excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1)-(2). You have marked information in Exhibits B and E that the sheriff seeks to withhold under section 552.130. We note, however, that this exception does not encompass the Virginia driver's license numbers that you have marked in Exhibit B. The sheriff may not withhold the Virginia driver's license numbers under section 552.130.

We also note that section 552.130 protects personal privacy. In this instance, the requestor states that she has been authorized to obtain information from the sheriff on behalf of a named attorney. According to the records authorization that the requestor provided, the named attorney represents the individual whose records are the subject of the instant request for information (the "named individual"). Thus, the requestor is the named individual's authorized representative. As such, the requestor has a special right of access to the named individual's private information. *See* Gov't Code § 552.023(a).¹ Therefore, the sheriff may not withhold the named individual's Texas driver's license number from this requestor under section 552.130. *See* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Likewise, information relating to a motor vehicle in which the named individual owns an interest may not be withheld from this requestor under section 552.130. *Id.* We have marked other Texas driver's license information in Exhibit B that the sheriff must withhold under section 552.130. We also have marked Texas motor vehicle information in Exhibit B that must be withheld under section 552.130, unless the requestor has a right of access to that information.

Lastly, we address section 552.147 of the Government Code. This section provides that "[t]he social security number of a living person is excepted from" required public disclosure

¹Section 552.023(a) provides that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

under the Act.² We note that section 552.147 also protects personal privacy. Therefore, the requestor also has a right of access to the named individual's social security number, and the sheriff may not withhold that information in this instance under section 552.147. Gov't Code § 552.023(a); Open Records Decision No. 481 at 4. We have marked another social security number in Exhibit B that must be withheld under section 552.147 of the Government Code.

In summary: (1) except for the basic information that must be released under section 552.108(c), the sheriff may withhold Exhibits C and D under section 552.108(a)(2) of the Government Code; (2) the sheriff must withhold the marked Texas driver's license and motor vehicle information in Exhibit B under section 552.130 of the Government Code, unless the requestor has a right of access to the motor vehicle information under section 552.023 of the Government Code; and (3) the sheriff must withhold the marked social security number in Exhibit B under section 552.147 of the Government Code. The rest of the submitted information must be released.³

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

²We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

³Should the sheriff receive another request for these same records from a requestor who would not have a right of access to private information, the sheriff should resubmit these same records and request another ruling. See Gov't Code §§ 552.301(a), .302.

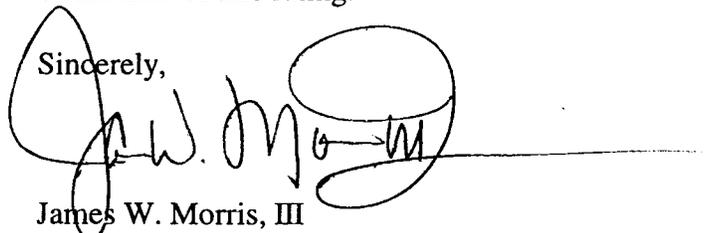
Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III", with a horizontal line extending to the right from the end of the signature.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 253607

Enc: Submitted documents

c: Ms. Kim Frederick
Rydman Records & Reporting
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(w/o enclosures)