



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 16, 2009

Ms. Luz E. Sandoval-Walker  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2009-00694

Dear Ms. Sandoval-Walker:

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# 336566.

The El Paso Police Department (the "department") received a request for information pertaining to a specified incident. You state that some responsive information has been released to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

We begin by noting that the submitted documents contain court records signed by a magistrate. Information filed with a court is generally a matter of public record and may not be withheld from disclosure unless it is confidential under other law. *See* Gov't Code § 552.022(a)(17). Sections 552.103 and 552.108 of the Government Code are discretionary exceptions that protect a governmental body's interests and are therefore not "other law" that makes court records confidential for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.)

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you do not present any arguments against disclosure under that section. We note this office has concluded that section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2000), 575 at 2 (1990).

(governmental body may waive section 552.103); Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 522 at 4 (1989) (discretionary exceptions in general). Thus, the court records in the submitted information may not be withheld pursuant to section 552.103 or section 552.108. As you raise no other exception to disclosure of this information, the court records subject to section 552.022(a)(17) must be released.

We next address your claim under section 552.108 of the Government Code regarding the remaining information not subject to section 552.022. 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] release of the information would interfere with the detection, investigation, or prosecution of crime.” 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 state that the remaining submitted information relates to an ongoing criminal prosecution. Based on your representation and our review of the information at issue, we conclude that 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. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, section 552.108(a)(1) is applicable.

We note, however that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes an arrestee’s social security number.<sup>2</sup> *See* 531 S.W.2d at 186; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the remaining information from disclosure pursuant to section 552.108(a)(1).<sup>3</sup> We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.

In summary, the court records subject to section 552.022(a)(17) of the Government Code must be released to the requestor. With the exception of basic information, the department

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<sup>2</sup>We 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.

<sup>3</sup>Based on this finding, we do not reach your remaining claimed exceptions to disclosure, except to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

may withhold the remaining information from disclosure pursuant to section 552.108(a)(1) of the Government Code.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/jb

Ref: ID# 336566

Enc. Submitted documents

c: Requestor  
(w/o enclosures)