



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 13, 2009

Mr. David K. Walker  
County Attorney  
Montgomery County  
207 West Phillips, 1<sup>st</sup> floor  
Conroe, Texas 77301

OR2009-01937

Dear Mr. 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# 334872.

The Montgomery County Sheriff's Department (the "department") received a request for incident report number 08A018778. You claim that a portion of the submitted 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.

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), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision Nos. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. You have

submitted an affidavit from the Assistant District Attorney for Montgomery County objecting to the release of the requested information because it relates to an ongoing criminal investigation. Based on this representation and our review of the submitted information, we conclude that release of the 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). We note, however, that the information you seek to withhold under section 552.108 includes a citation. Because a copy of the citation was provided to the individual who was cited, we find that release of the citation will not interfere with the detection, investigation, or prosecution of crime, and therefore the department may not withhold the citation under section 552.108(a)(1).

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*. See 531 S.W.2d at 186-88. You must release basic information, including a detailed description of the offense, 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*). Thus, with the exception of basic information and the marked citation, the department may withhold the submitted information under section 552.108(a)(1).

We also note the citation contains information protected by section 552.130 of the Government Code. Section 552.130 excepts from disclosure “information [that] relates to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state[.]” Gov’t Code § 552.130(a)(1). Accordingly, the department must withhold the Texas driver’s license information we have marked under section 552.130 of the Government Code.

In summary, with the exception of basic information and the marked citation, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. The department must withhold the Texas driver’s license information we have marked in the citation under section 552.130 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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/jb

Ref: ID# 334872

Enc. Submitted documents

c: Requestor  
(w/o enclosures)