



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 3, 2009

Mr. David M. Swope
Assistant County Attorney
Harris County Attorney's Office
1019 Congress 15th Floor
Houston, Texas 77002-1700

OR2009-02763

Dear Mr. Swope:

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# 340281 (File No. 09GEN0258).

The Harris County Constable, Precinct Four (the "constable") received a request for information relating to a specified case number. 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 information you submitted.

Section 552.108 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and have provided an affidavit stating, that the submitted information is related to a pending criminal prosecution. Based on your representation and the submitted affidavit, we conclude that section 552.108(a)(1) is generally applicable in this instance. *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 submitted information includes a citation, which we have marked. Because a copy of the citation has been 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. *See* Gov't Code § 552.108(a)(1). Therefore, the constable may not withhold the marked citation under section 552.108(a)(1).

We also note that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 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. The constable 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*). The constable may withhold the rest of the submitted information, with the exception of the citation, under section 552.108(a)(1).

Lastly, we note that the citation contains Texas driver's license information. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state.¹ *See* Gov't Code § 552.130(a)(1). The constable must withhold the Texas driver's license information that we have marked under section 552.130.

In summary: (1) except for the marked Texas driver's license information, which the constable must withhold under section 552.130 of the Government Code, the marked citation must be released; and (2) the constable may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code, except for the basic information that must be released under section 552.108(c).

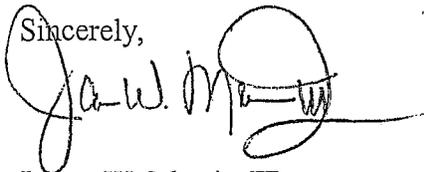
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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, 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

¹Unlike other exceptions to disclosure under the Act, this office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is written in a cursive style with a large, looping initial "J" and a long horizontal stroke extending to the right.

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

JWM/cc

Ref: ID# 340281

Enc: Submitted documents

c: Requestor
(w/o enclosures)