



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 4, 2009

Ms. Jennifer Tharp  
Chief Civil Prosecutor  
Comal County Criminal District Attorney's Office  
150 North Seguin Avenue Suite 314  
New Braunfels, Texas 78130

OR2009-02834

Dear Ms. Tharp:

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# 336212.

The Comal County Sheriff's Office (the "sheriff") received a request for information involving four named individuals and a specified time interval, including records relating to a specified incident.<sup>1</sup> You claim that the submitted information is excepted from disclosure under sections 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of responsive information.<sup>2</sup>

---

<sup>1</sup>We note that you also have submitted a copy of a request for substantially the same information that the New Braunfels Police Department (the "department") received from the same requestor. In connection with that request, the department has requested a ruling, and its request will be the subject of a separate decision by this office. Accordingly, this decision does not address your arguments regarding the request that the department received.

<sup>2</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling neither reaches nor authorizes the sheriff to withhold any information that is substantially different from the submitted information. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

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 state that the release of the submitted information would interfere with an ongoing criminal investigation and potential prosecution. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to most of the submitted information. *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 criminal trespass warning that was issued to the requestor. Because a copy of the warning was provided to the requestor, we find that the release of the criminal trespass warning will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). We therefore conclude that the criminal trespass warning, which we have marked, may not be withheld under section 552.108 and must be released.

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 sheriff 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*). Except for the marked criminal trespass warning, which also must be released, the sheriff may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code. As we are able to make these determinations, we need not address the other exceptions you claim.<sup>3</sup>

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.

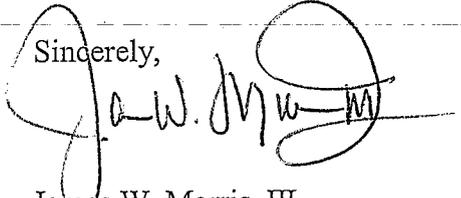
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php),

---

<sup>3</sup>We note that section 552.103 of the Government Code, which you also claim, does not generally except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991). Likewise, section 552.103 is not applicable to information that the opposing party in litigation has seen or to which the opposing party has already had access. *See* Open Records Decision Nos. 349 (1982), 320 (1982).

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,

A handwritten signature in black ink, appearing to read "J.W. Morris, III". The signature is stylized with a large, circular flourish at the end.

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

JWM/cc

Ref: ID# 336212

Enc: Submitted documents

c: Requestor  
(w/o enclosures)