



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 5, 2009

Mr. Richard J. Miller
County Attorney
Bell County
P.O. Box 1127
Belton, Texas 76513

OR2009-10830

Dear Mr. Miller:

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# 352767.

The Bell County Attorney's Office (the "county attorney") received a request for a specified police report and investigation file, including any video recordings. You state that basic information has been released to the requestor. You also state that the Texas Peace Officer's Crash Report CR-3 has been released pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c)(4) (governmental body must release accident report to a person who provides two of the following three items of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident). You claim that the remaining information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have not submitted the requested video recordings for our review. Therefore, to the extent such recordings existed on the date the county attorney received this

¹Although you also raise sections 552.107, 552.111, 552.132, and 552.1325 of the Government Code, you have provided no arguments in support of withholding the submitted information under these exceptions. Thus, you have waived your claims under section 552.107 and 552.111, and we have no basis for finding any of the submitted information confidential under section 552.132 or section 552.1325. *See* Gov't Code § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

request, we assume you have released them to the requestor. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), 552.302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note that portions of the submitted information are subject to required public disclosure under section 552.022 of the Government Code, which provides in relevant part:

the following categories of information are public information and not excepted from required disclosure under this chapter unless they are expressly confidential under other law:

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). In this instance, the submitted information includes documents filed with a court. This information is expressly public under section 552.022(a)(17) and the county attorney must release it unless it is confidential under other law. You raise sections 552.103 and 552.108 of the Government Code for this information. However, these are discretionary exceptions to disclosure that protect the governmental body's interests and do not qualify as "other law" for the purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103), Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Accordingly, the county attorney may not withhold the court-filed documents under either section 552.103 or section 552.108 of the Government Code. We note you also raise section 552.130 of the Government Code for this information. However, none of the information is subject to section 552.130. As you make no additional arguments against the disclosure of this information, the court-filed documents must be released. However, we will consider your arguments against disclosure for the remaining information that is not subject to section 552.022.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Generally, 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 submitted information is related to a pending criminal investigation and prosecution. Based upon this representation and our review, we conclude that the release of the remaining 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).

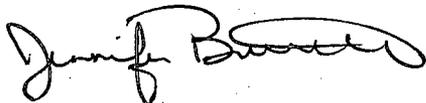
We note, and you acknowledge, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d 177. Thus, with the exception of basic information, which you state has been released, the county attorney may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

In summary, with the exception of basic information and the court-filed documents, the county attorney may withhold the submitted information under section 552.108(a)(1) of the Government Code. Basic information and the court-filed documents must be released.³

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

Sincerely,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/eeg

²As our ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that basic information may generally not be withheld from public disclosure under section 552.103. Open Records Decision No. 597 (1991).

³We note basic information and a court-filed document include the arrestee's social security number. 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. Gov't Code § 552.147(b).

Ref: ID# 352767

Enc. Submitted documents

c: Requestor
(w/o enclosures)