



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 30, 2009

Mr. Flint Matzke
Assistant County Attorney
Brazos County Attorney's Office
300 East 26th Street Suite 325
Bryan, Texas 77803

OR2009-16855

Dear Mr. Matzke:

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# 367572.

The Brazos County Sheriff's Office (the "sheriff") received a request for information relating to a specified case number. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions 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 state that the release of the submitted information would interfere with a pending prosecution. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to 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 statutory warning and a notice of suspension. Because copies of those documents are provided to the person who is the subject of the warning and the notice, we find that the release of the statutory warning and the notice of suspension will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the statutory warning and the notice

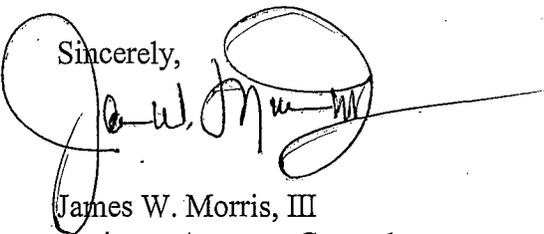
of suspension, which we have marked, may not be withheld under section 552.108(a)(1) and must be released.¹

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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). 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. Except for the statutory warning and the notice of suspension, 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 do not address the other exception you claim.²

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, toll free, at (888) 672-6787.

Sincerely,



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

JWM/cc

¹We note that both the statutory warning and the notice of suspension contain the requestor's Texas driver's license number, which the sheriff would ordinarily be required to withhold under section 552.130 of the Government Code. Because that exception protects personal privacy, the requestor has a right to his own driver's license information under section 552.023 of the Government Code. Should the sheriff receive another request for these same records from a person who would not have a right to this requestor's private information, the sheriff should resubmit these records and request another decision. See Gov't Code §§ 552.301(a), .302.

²We note that section 552.103 of the Government Code generally does not 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 generally not applicable to information that the opposing party in litigation has already seen or to which the opposing party has previously had access. See Open Records Decision Nos. 349 (1982), 320 (1982).

Ref: ID# 367572

Enc: Submitted documents

c: Requestor
(w/o enclosures)