



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 1, 2010

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

OR2010-02990

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# 375857.

The Bell County Attorney's Office (the "county attorney") received a request for information pertaining to a specified case. You state you have released some of the requested information. You claim that 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.

We first note that the submitted information includes court documents. Section 552.022 of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although the county attorney seeks to withhold these documents that are subject to section 552.022(a)(17) under section 552.108 of the Government Code, that section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the court documents we have marked may not be withheld under section 552.108. As you raise no other exception to disclosure of this information, the court documents we have marked must be released pursuant to section 552.022(a)(17) of the Government Code.

Next, we address your claim under section 552.108 for the rest of 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[.]” 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 the rest of the submitted information is related to a pending criminal investigation and prosecution. Based on this representation, we conclude that section 552.108(a)(1) is generally applicable to the remaining 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 remaining information includes a waiver of magistrate appearance, statutory warning, and a notice of suspension. Because copies of those documents are provided to the person who is the subject of the waiver, warning, and the notice, we find that the release of this information will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Thus, the county attorney may not withhold those documents 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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The county attorney 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 waiver of magistrate appearance, statutory warning, notice of suspension, and basic information, the county attorney may withhold the rest of the submitted information under section 552.108(a)(1).

We note the statutory warning and notice of suspension contain information subject to 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 [or] a motor vehicle title or registration issued by an agency of this state [.]” Gov’t Code § 552.130. The county attorney must withhold the Texas driver’s license number we have marked in the statutory warning and notice of suspension pursuant to section 552.130 of the Government Code.¹

¹We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the marked court document must be released pursuant to section 552.022(a)(17) of the Government Code. Except for the waiver of magistrate appearance, statutory warning, notice of suspension, and basic information, the county attorney may withhold the rest of the submitted information under section 552.108(a)(1) of the Government Code. In releasing the statutory warning and the notice of suspension, the county attorney must withhold the Texas driver's license number we have marked pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 375857

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²We note the information being released contains a social security number not belonging to the requestor. 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.