



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County Attorney's Office
301 Jackson Street Suite 728
Richmond, Texas 77469

OR2010-06184

Dear Ms. Rangel:

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# 377457.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for information relating to 911 calls involving two specified addresses. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of responsive information.²

Section 552.108(a)(1) 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

¹You state that the requestor does not seek access to the social security, driver's license, and personal identification numbers of third parties. Thus, those types of information are not responsive to this request, and this decision does not address their public availability.

²This 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).

that the submitted information relating to case number 06-9763 pertains to a pending case. We note that the information in question pertains to an incident of alleged criminal mischief. Under section 28.03 of the Penal Code, criminal mischief is either a felony or a misdemeanor, depending on the value of the property involved and other statutorily specified circumstances. *See* Penal Code § 28.03(b)(1)-(7). Under article 12.01 of the Code of Criminal Procedure, the statute of limitations for prosecution of a felony case of criminal mischief is three years from the date of the commission of the offense. *See* Crim. Proc. Code art. 12.01(7). Under article 12.02 of the Code of Criminal Procedure, an indictment, information, or complaint in a misdemeanor case of criminal mischief “may be presented within two years from the date of the commission of the offense, and not afterward.” *Id.* art. 12.02(a)-(b). In this instance, the criminal mischief allegedly occurred on May 20, 2006. You state that the sheriff received the instant request for information on February 10, 2010. You do not indicate that any prosecution of the alleged offense was pending on the date of the sheriff’s receipt of the request. Thus, based on your representations and our review of the information at issue, we find that prosecution of the alleged offense is barred by the statute of limitations. Accordingly, we conclude that you have not demonstrated that release of the information relating to case number 06-9763 would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1); *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). Therefore, the sheriff may not withhold any of the information relating to case number 06-9763 under section 552.108(a)(1) of the Government Code.

You also claim section 552.108(a)(2), which excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). You state that the submitted information relating to case numbers 06-13546 and 03-12306 pertains to closed cases that did not result in a conviction or a deferred adjudication. Based on your representations, we conclude that section 552.108(a)(2) is generally applicable to that information.

We 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*). In this instance, the information at issue includes call-for-service records. In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch (“CAD”) report is substantially the same as basic information. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). Therefore, with the exception of the basic information that must be released under section 552.108(c), the sheriff

may withhold the information relating to case numbers 06-13546 and 03-12306 under section 552.108(a)(2).

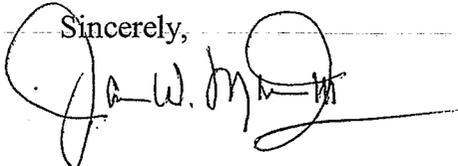
We note that section 552.130 of the Government Code is applicable to some of the remaining information at issue.³ Section 552.130 excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(2). The sheriff must withhold the Texas motor vehicle information we have marked under section 552.130.⁴

In summary: (1) the information relating to case numbers 06-13546 and 03-12306 may be withheld under section 552.108(a)(2) of the Government Code, except for basic information under section 552.108(c); and (2) the marked Texas motor vehicle information must be withheld under section 552.130 of the Government Code. The rest of the submitted information must be released.

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/rl

³This 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).

⁴We note that 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 license plate number under section 552.130, without the necessity of requesting an attorney general decision.

Ref: ID# 377457

Enc: Submitted documents

c: Requestor
(w/o enclosures)