



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 22, 2013

Mr. Jon Thatcher
Assistant Criminal District Attorney
Rockwall County
1111 East Yellowjacket Lane, Suite 201
Rockwall, Texas 75087

OR2013-01238

Dear Mr. Thatcher:

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# 478503.

The Rockwall County Sheriff's Office (the "sheriff's office") received a request for information related to a specified arrest of a named individual. You claim most of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the information you submitted.

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 the release of the submitted information would interfere with a pending criminal case. Based on your representations and our review, we conclude section 552.108(a)(1) is generally applicable to the information at issue. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

In this instance, however, the submitted information includes court documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,]" unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Thus, the court documents we have marked are subject to disclosure under section 552.022(a)(17). You seek to withhold the court documents under section 552.108, which 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), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 does not make information confidential for purposes of section 552.022(a)(17). Therefore, the sheriff's office may not withhold the information in the court documents under section 552.108 of the Government Code.

The submitted information also includes a citation, which we have marked. Because a copy of a citation is provided to the person who is cited, we find the release of the citation will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the sheriff's office may not withhold the citation under section 552.108 of the Government Code.

We also note 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 offense and arrest 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's office must release basic offense and arrest 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 marked court documents, the marked citation, and basic information under section 552.108(c), the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

Lastly, we note one of the court documents and the citation contain driver's license and motor vehicle information. Section 552.130 of the Government Code excepts from disclosure information related to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country.² *See* Gov't Code § 552.130(a)(1)-(2). We note section 552.130 makes information confidential for purposes of section 552.022(a)(17) of the Government Code. We have

¹As we are able to make this determination, we need not address your claim under section 552.101 of the Government Code.

²This office will raise section 552.130 on behalf of a governmental body, as this section is a mandatory exception to disclosure. *See* Gov't Code §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

marked the information in the court document and the citation that falls within the scope of section 552.130. We note the requestor may be an attorney for the individual to whom the marked driver's license and motor vehicle information in the court document pertains. If so, the requestor is the individual's authorized representative. Thus, because section 552.130 protects privacy, the requestor has a right of access under section 552.023 of the Government Code to the individual's driver's license and motor vehicle information if the requestor is the individual's authorized representative. *See id.* § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).³ In that event, the individual's driver's license and motor vehicle information may not be withheld under section 552.130 but must be released pursuant to section 552.023. If the requestor is not the individual's authorized representative, then the sheriff's office must withhold the marked driver's license and motor vehicle information in the court document under section 552.130 of the Government Code. In either event, the marked driver's license and motor vehicle information in the citation must be withheld under section 552.130.

In summary, the sheriff's office (1) may withhold the submitted information under section 552.108(a)(1) of the Government Code, except for the marked court documents and citation and basic information under section 552.108(c); (2) must withhold the driver's license and motor vehicle information we have marked in one of the court documents and the citation under section 552.130 of the Government Code, unless the requestor has a right of access to the driver's license and motor vehicle information in the court document under section 552.023 of the Government Code; and (3) must release the remaining information in the court documents and the citation and basic information under section 552.108(c).⁴

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.

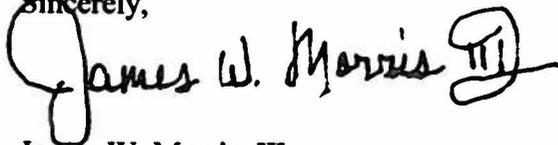
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public

³Section 552.023 provides in part that "[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests." Gov't Code § 552.023(a).

⁴We note the citation contains a 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 under the Act. We also note basic information under section 552.108(c) includes an arrested person's social security number. The requestor has a right, however, to the arrested person's social security number if he is the individual's authorized representative. *See generally* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).

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,

A handwritten signature in black ink that reads "James W. Morris III". The signature is written in a cursive style with a large initial "J" and a stylized "III" at the end.

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

JWM/bhf

Ref: ID# 478503

Enc: Submitted information

c: Requestor
(w/o enclosures)