



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2016

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County Attorney's Office
401 South Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2016-14506

Dear Mr. Grove:

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# 616061.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for dash camera video footage regarding a specified incident. You claim 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.

Initially, the requestor indicates, and we agree, portions of the submitted videos were shown in open court. Therefore, this information constitutes information that was filed with a court. Section 552.022(a)(17) provides:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

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

Gov't Code § 552.022(a)(17). The information at issue must be released unless it is made confidential under the Act or other law. *See id.* Although the sheriff's office raises

section 552.108 of the Government Code for this information, this exception is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions in general), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, to the extent the submitted video recordings were shown in open court, the sheriff's office may not withhold such court-filed information under section 552.108 of the Government Code. However, because section 552.130 makes information confidential under the Act, we will address its applicability to the information at issue.¹ Additionally, we will address your argument under section 552.108 for any information that is not subject to section 552.022.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state the information at issue relates to a case in which a conviction was obtained against the defendant. However, you state the conviction of the suspect is currently on direct appeal. Further, the sheriff's office and the Fort Bend County Attorney's Office object to the release of the information at issue because release would interfere with the pending appeal. Upon review, we conclude the release of the information at issue 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) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the information that is subject to section 552.022, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a). Upon review, we find the sheriff's office must withhold the license plate information within the court-filed information under section 552.130 of the Government Code.

In summary, with the exception of the information subject to section 552.022, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the portions of the submitted videos that were shown in open

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

court under section 552.022(a)(17), the sheriff's office must withhold the license plate information under section 552.130 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Lee Seidlits', with a horizontal line extending to the right.

Lee Seidlits
Assistant Attorney General
Open Records Division

CLS/bw

Ref: ID# 616061

Enc. Submitted documents

c: Requestor
(w/o enclosures)