



November 9, 1999

Mr. Randall L. Patterson
City Attorney
City of Brenham
P.O. Box 1059
Brenham, Texas 77834-1059

OR99-3167

Dear Mr. Patterson:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 129442.

The City of Brenham (the "city") received two requests for information related to an internal investigation or submitted to the Washington County District Attorney in connection therewith. We understand you to seek to withhold, in response to the request, only certain witness statements. You claim that the witness statements are excepted from disclosure under sections 552.103, 552.107, and 552.108 of the Government Code. We assume that the city has released or will release all other information it holds which is responsive to the requests. Section 552.108(a) excepts from required public disclosure

(a) Information 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; [or]

(2) 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[.]

You advise that the city's internal investigation was a criminal one and led to the city's presenting a report to the grand jury, but that there was no resulting indictment. We are unsure whether you mean to say that the grand jury is still considering this matter or that it

has concluded its deliberations and decided not to bring an indictment. If the matter is still pending with the grand jury, you may, except as noted below, withhold the witness statements under section 552.108(a)(1). If the grand jury has concluded its deliberations without bringing an indictment, then you may, except as noted below, withhold the witness statements under section 552.108(a)(2).

Section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). You must release these types of information in accordance with *Houston Chronicle Publishing Company 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). Since we have disposed of this request under section 552.108, we do not address your other claimed exceptions to disclosure except to note that the "basic information" not protected by section 552.108 would not be protected by the other exceptions you raised. *See, e.g.*, Open Records Decision No. 597 (1991).

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



William Walker
Assistant Attorney General
Open Records Division

WMW/ljp

Ref: ID# 129442

Encl. Submitted documents

cc: Mr. Roy May
President and General Manager
KULF 94.1 FM
306 East Main
Brenham, Texas 77833
(w/o enclosures)