



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 9, 2007

Mr. Fred M. Barker
Assistant County Attorney
Parker County
118 West Columbia Street
Weatherford, Texas 76086

OR2007-14766

Dear Mr. Barker:

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 #294349.

The County Attorney of Parker County (the "county") received a request for police records from two specified months pertaining to family violence incidents involving a named individual. You state that a portion of the requested information will be made available to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You claim that the submitted information may be withheld pursuant to section 552.108 of the Government Code. This section provides in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 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[.]

Gov't Code § 552.108(a)(1), (2). Generally speaking, subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information 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 (Tex. 1977). A governmental body that claims section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See Gov't Code* §§ 552.108(a)(2), .301(e)(1)(A). In this instance, you state that the submitted report and accompanying information relate to a pending criminal case. Based on your representations and our review, we determine that release of the submitted information 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), *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, we find that section 552.108(a)(1) is applicable to the submitted information.

Section 552.108 does not, however, except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d 177. *See Open Records Decision No. 127* (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, which you state will be released, the county may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.

filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 294349

Enc. Submitted documents

c: Ms. Miriam Harris
369 Mesa Trail
Weatherford, Texas 76087
(w/o enclosures)