



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 18, 2009

Mr. Jay A. Cantrell  
Attorney at Law  
1101 Scott Avenue, Suite 6  
Wichita Falls, Texas 76301-4660

OR2009-11559

Dear Mr. Cantrell:

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# 354203.

The City of Burkburnett (the "city"), which you represent, received two requests from the same requestor for a list of all officers and supervisors who turned in seized weapons on September 17 or September 18, 2008; the make, model, and caliber of the weapons; the case numbers associated with the seizures; statements from the involved officers and supervisors accompanying the returned weapons; and the officers' firearms qualifications information from January 1, 2007 to December 31, 2008, as well as any information pertaining to an investigation concerning a Ruger 10-22 rifle seized in March 2007. You state you have released the officers' firearms qualifications information to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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). Generally, a governmental body claiming section 552.108 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). Section 552.108 is generally not applicable to internal administrative records that are not related to an investigation or prosecution of crime. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.— El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution).

You assert the submitted information relates to a pending criminal investigation. You inform us, and provide documentation showing, that the Criminal Prosecutions Division of the Office of the Attorney General has asked that the information be withheld because its release would interfere with an ongoing criminal investigation. Based upon this representation and our review, we conclude 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, section 552.108(a)(1) applies to the submitted information. Accordingly, the city may withhold the submitted information from disclosure under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

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](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 at (512) 475-2497.

Sincerely,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/eeg

Ref: ID# 354203

Enc. Submitted documents

c: Requestor  
(w/o enclosures)