



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 16, 2009

Mr. Ben Stool
Assistant District Attorney
Dallas County
411 Elm Street, 5th Floor
Dallas, Texas 75202

OR2009-14686

Dear Mr. Stool:

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# 358569.

Dallas County (the "county") received a request for citizen complaints made against county constables or deputy constables during a specified time period. You claim that the submitted 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.

Initially, we address your assertion that the submitted information is not responsive to the request. The request seeks "all substantiated and unsubstantiated citizen complaints lodged against [county] [c]onstables or [d]eputy [c]onstables" during a specified time period. We note a governmental body must make a good-faith effort to relate a request for information to responsive information that is within the governmental body's possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). The submitted information pertains to citizen complaints made against numerous constables or deputy constables during the requested time period. We have reviewed the submitted information and conclude it is all responsive to the request. We will therefore address your claimed exceptions for the submitted information.

Based on your arguments, we understand you to raise section 552.108(a)(1) and section 552.108(b)(1) of the Government Code. Section 552.108 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 [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)-(b). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with on-going law enforcement and prosecution efforts in general. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note that the submitted information relates to internal affairs investigations. Section 552.108 is generally not applicable to records of an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (addressing statutory predecessor to section 552.108). You state, however, that the information labeled as Exhibit A pertains to a pending criminal prosecution, and the release of the information would interfere with that prosecution. Based on this representation and our review, we conclude release of Exhibit A 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 section 552.108(a)(1) is applicable to Exhibit A. However, you do not inform this office that any of the remaining information relates to any open or pending criminal investigation or prosecution nor do you otherwise explain how release of this information would otherwise interfere with law enforcement. We therefore conclude the county may not withhold the any of the remaining information under section 552.108 of the Government Code.

We note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the 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*). Thus, with the exception of basic information, the county may withhold Exhibit A under section 552.108(a)(1) of the Government Code.¹

We note the remaining information includes Texas motor vehicle record information.² Section 552.130 of the Government Code excepts from disclosure information that relates to a Texas motor vehicle operator's or driver's license or a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1), (2). Thus, the county must withhold the Texas motor vehicle record information, which we have marked, under section 552.130 of the Government Code.

In summary, with the exception of basic information, the county may withhold Exhibit A under section 552.108(a)(1) of the Government Code. The county must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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 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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

¹As our ruling is dispositive for this information, we need not address your remaining argument against disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 358569

Enc. Submitted documents

cc: Requestor
(w/o enclosures)