



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 13, 2009

Mr. C. Corey Fickes  
Taylor Olson Adkins Sralla & Elam L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2009-16173

Dear Mr. Fickes:

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# 361960.

The City of Richland Hills (the "city"), which you represent, received a request for information related to a specified arrest, including the following: (1) the oaths, bonds, and commission of office for the arresting officer and a particular judge; and (2) a copy of the arrest warrant "and all other documents contained in files" concerning the arrest.<sup>1</sup> The requestor also asks several questions related to the "statute, law or code" applicable in certain instances. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note that you did not submit a copy of the arrest warrant or any oaths, bonds, or commission of office for the arresting officer and the judge. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from

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<sup>1</sup>We note that the requestor, in part, has asked the city to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). We assume the city has made a good faith effort to do so.

disclosure. Therefore, to the extent records responsive to these aspects of the request exist, we assume that you have released that information to the requestor. If you have not released any such information, you must release it to the requestor at this time. See Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.108 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. See *id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal case and the release of this information would interfere with prosecution of the case. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. 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).

We note, however, that the submitted information includes a document entitled “Defendant’s Plea and Request for Jail Time Credit.” The city provided a copy of this form to the defendant. You have not explained how releasing this information, which has already been seen by the defendant, would interfere with the detection, investigation, or prosecution of crime. See Gov't Code § 552.108(a)(1). Accordingly, the plea may not be withheld under section 552.108.

We further note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. The city must release basic information even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). With the exception of the plea and basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we do not address your remaining claims.<sup>2</sup>

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<sup>2</sup>We note that section 552.103 generally does not except from disclosure the same basic information that must be released under section 552.108(c). See Open Records Decision No. 597 (1991). We also note that section 552.103 is generally not applicable to information that the opposing party in litigation has already seen or to which the opposing party has previously had access. See Open Records Decision Nos. 349 (1982), 320 (1982).

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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 361960

Enc. Submitted documents

c: Requestor  
(w/o enclosures)