



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

April 1, 2011

Mr. Charles E. Zech
Denton, Navarro, Rocha & Bernal, PC
2517 North Main Avenue
San Antonio, Texas 78212

OR2011-04502

Dear Mr. Zech:

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# 413278.

The City of Live Oak (the "city"), which you represent, received two requests for information related to a specified incident. The first request seeks the supplement filed by a named officer in the case at issue. The second request seeks all information relating to the incident and a named person's arrest and imprisonment status and prior criminal history. You state some information has been released to the second requestor. You claim the information submitted for both requests is excepted under section 552.108 of the Government Code.¹ We have considered the claimed exception and reviewed the submitted information.

Section 552.108 provides, in relevant 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[.]

Gov't Code § 552.108(a)(1). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. A

¹You initially raised section 552.101 in conjunction with both common-law privacy and section 58.007 of the Family Code. In a letter dated March 23, 2011, you informed us you are withdrawing your argument under section 58.007 because you have determined the suspect was eighteen years old at the time the offense was committed.

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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the requested information concerns a case which is pending investigation and prosecution with the Bexar County District Attorney's Office. You assert, and provide a letter from the district attorney agreeing, release of this information would interfere with the investigation and prosecution. Based on your representations, the district attorney's statement, and our review, we conclude section 552.108(a)(1) applies to the information submitted for both requests, and release 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, however, 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 177 at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state has been released, the city may withhold the submitted information under section 552.108(a)(1). Because our ruling is dispositive, we do not address your remaining argument against its 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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 413278

Enc. Submitted documents

c: Requestor
(w/o enclosures)