



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2015

Mr. Brandon S. Davis
Counsel for the City of Liberty
Fielder, Gunter & Davis
1517 Trinity Street
Liberty, Texas 77575

OR2015-11869

Dear Mr. Davis:

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# 567899.

The City of Liberty and the Liberty Police Department (collectively, the "city"), which you represent, received a request for all documents and records concerning a specified citation. You state the city has released some of the requested information. You claim the submitted information is not subject to the Act. In the alternative, you claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

The Act is applicable to information "written, produced, collected, assembled, or maintained under a law or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). However, the Act's definition of "governmental body" does not include the judiciary. *See id.* § 552.003(1)(B). Information "written, produced, collected, assembled, or maintained by or for the judiciary" is not subject to the Act but, instead, is "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) of the Government Code prior to enactment of Government Code section 552.0035). Therefore, the Act neither authorizes information held by the judiciary to be withheld, nor does it require such information be disclosed. *See* Open Records Decision No. 25 (1974).

You assert the submitted citation, complaints, and warrants are maintained by the city's municipal court. However, upon review, we find the information at issue may also be maintained by the city's police department. Thus, to the extent the submitted information is maintained solely by the city's municipal court, we find the submitted information consists of records of the judiciary, and is thus, not subject to disclosure under the Act. However, to the extent the submitted information is maintained by the city's police department, it is subject to the Act and we will consider your claimed exception to disclosure.

Section 552.108(a)(1) 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 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). We note the submitted information includes a citation. Because a copy of the citation has been provided to the individual who was cited, we find that release of the citation will not interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the city may not withhold the citation under section 552.108(a)(1). You state the remaining information relates to an open criminal investigation. Based on this representation, we conclude that the release of this 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) (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). Thus, with the exception of the citation, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We note the citation contains information subject to section 552.130 of the Government Code.¹ Section 552.130 excepts from disclosure information relating to a motor vehicle operator’s or driver’s license or permit or a motor vehicle title or registration issued by an agency of this state or another state or country. *See* Gov’t Code § 552.130(a)(1)-(2). The city must withhold the information we have marked in the citation under section 552.130 of the Government Code.

In summary, to the extent the submitted information is maintained solely by the city’s municipal court, we find the submitted information consists of records of the judiciary, and is thus, not subject to disclosure under the Act. To the extent the information at issue is maintained by the city’s police department, with the exception of the citation, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

¹The 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).

In releasing the citation, the city must withhold the information we have marked under section 552.130 of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/cbz

Ref: ID# 567899

Enc. Submitted documents

c: Requestor
(w/o enclosures)