



March 9, 2000

Mr. Robert T. Jarvis
County Attorney
Grayson County
200 S. Crockett, Suite 116A
Sherman, Texas 75090

OR2000-0952

Dear Mr. Jarvis:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 132685.

The Grayson County Attorney (the "county") received two requests for all records in the county attorney's office, including material prepared on computers, relating to the re-election campaign of the county attorney. Additionally, one of the requestors asked for the county attorney's membership in community or civic groups and any documents concerning these groups generated at the county attorney's office. You assert that you have released the "questionable correspondence" and the brochure to the requestors and the media. You have also sent this office a copy of the documents concerning community and civic groups which you have released to the requestor. You claim that the remaining submitted documents, as well as a computer disk, are excepted from disclosure under sections 552.108 and 552.109 of the Government Code. You indicated that the submitted information was also forwarded to this office for review in regard to the investigation of this matter. We have considered the exceptions you claim and reviewed the submitted information.

You assert that section 552.108, if invoked by this office, would prevent disclosure of the submitted information.¹ See Open Records Decision Nos. 586 (1991) (need of another governmental body to withhold requested information may provide compelling reason for nondisclosure under section 552.108), 474 (1987) (where incident is still under active investigation, section 552.108 may be invoked by any proper custodian of information which

¹You acknowledge that the decision to invoke section 552.108 belongs to the law enforcement agency conducting the investigation.

relates to incident). Although this office has not asserted that the submitted information is excepted from disclosure under section 552.108, the Texas Rangers have asserted that section 552.108 excepts the information from disclosure.

Section 552.108(a)(1) excepts from disclosure information 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. The Texas Rangers are involved in an ongoing criminal investigation and assert that release of the information would be detrimental to the criminal investigation. Accordingly, we find that release of the requested 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, we conclude that the submitted information may be withheld under section 552.108(a)(1).² *See* ORD 586, ORD 474.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body's intent to challenge this letter ruling in court. If the governmental body fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report

²Having found that the information may be withheld under section 552.108(a)(1), we need not address the applicability of section 552.109.

that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jennifer Bialek
Assistant Attorney General
Open Records Division

JHB/ch

Ref: ID# 132685

Encl. Submitted documents

cc: Mr. Frank Alvarez, Sr.
Publisher
Pottsboro Press
P. O. Box 817
Pottsboro, Texas 75076-0817
(w/o enclosures)

Ms. Ellen Sawko
News Director
KXII-TV
4201 Texoma Parkway
Sherman, Texas 75090
(w/o enclosures)