



August 28, 2000

Mr. Floyd M. Akers  
City Attorney  
City of New Braunfels  
P.O. Box 311747  
New Braunfels, Texas 78131-1747

OR2000-3312

Dear Mr. Akers:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 139862.

The City of New Braunfels (the "city") received a request for "all documents related to the discharge [of chemicals into the city's sanitary sewer system], including any documents related to samples of wastewaters taken by the City and any lab analyses or reports discussing those samples." You assert that the submitted information is excepted from disclosure based on section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the submitted information.

Section 552.108(a)(1) of the Government Code provides:

(a) [i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [public disclosure] if: (1) release of the information would interfere with the detection, investigation or prosecution of crime[.]

Based upon your arguments in your brief to this office, it is our understanding that you are asserting the applicability of section 552.108(a)(1) in regard to the law enforcement interests of the Lower Colorado River Authority ("LCRA") Rangers in investigating possible criminal conduct. You state that the requested information relates to a pending criminal investigation being conducted by state authorities. You indicate that the LCRA Rangers assert that the release of the submitted information would interfere with the investigation of this alleged

crime. 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); *see also* Open Records Decision Nos. 586 (1991) (the predecessor statute to section 552.108(a) protected information held by a governmental body that was the subject of an ongoing criminal investigation by state and federal authorities). Therefore, the city may withhold the requested information under section 552.108(a)(1).

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 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,

A handwritten signature in cursive script that reads "Carla Gay Dickson".

Carla Gay Dickson  
Assistant Attorney General  
Open Records Division

CGD/ljp

Ref: ID# 139862

Encl. Submitted documents

cc: Mr. Patrick A. Genzler  
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500 World Trade Center  
Norfolk, Virginia 23510-1699  
(w/o enclosures)