



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 24, 2009

Mr. Marc J. Schnall
Langley & Banack
Attorney for City of Selma
Trinity Plaza II
745 East Mulberry, Suite 900
San Antonio, Texas 78212-3166

OR2009-08715

Dear Mr. Schnall:

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# 346852.

The Selma Police Department (the "department"), which you represent, received a request for information pertaining to a particular search warrant. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.1175 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 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). You state that the information you have marked relates to a pending criminal investigation or

¹Although you raise section 552.117 for a portion of the submitted information, we note section 552.1175 is the proper exception in this instance because the department does not hold the submitted information in an employment capacity.

prosecution. Based upon this representation and our review, we conclude that release of the marked 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). Thus, the department may withhold the information you have marked under section 552.108(a)(1).

You assert that a portion of the remaining information is excepted under section 552.1175 of the Government Code, which provides in part the following:

Information that relates to the home address, home telephone number, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

- (1) chooses to restrict public access to the information; and
- (2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(b). The remaining information includes the telephone number of a department officer. You do not inform this office, nor does any of the submitted information indicate, whether the officer has elected to keep this information confidential in accordance with subsections 552.1175(b)(1) and (2). Accordingly, if the officer elects to restrict access to this information in accordance with section 552.1175(b), then the department must withhold the officer's telephone number we have marked under section 552.1175. If no election is made, the department must release the officer's telephone number.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. If the department officer whose information is at issue elects to restrict access to his telephone number in accordance with section 552.1175(b), then the department must withhold the officer's telephone number we have marked under section 552.1175. If no election is made, then the department must release the officer's telephone number. The remaining information must be released.²

²As you acknowledge, the requestors have a special right of access to some of the information being released in this instance. Gov't Code § 552.023 (person or person's authorized representative has a special right of access to records that contain information relating to the person that are protected from public disclosure by laws intended to protect that person's privacy interests). Because such information may be confidential with respect to the general public, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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 at (512) 475-2497.

Sincerely,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/rl

Ref: ID# 346852

Enc. Submitted documents

cc: Requestor
(w/o enclosures)