



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

August 21, 2009

Mr. Jason D. King
Akers & Boulware-Wells, L.L.P.
816 Congree Avenue, Suite 1725
Austin, Texas 78701

OR2009-11826

Dear Mr. King:

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# 353216.

The Schulenburg Police Department (the "department"), which you represent, received a request for all records pertaining to a specified automobile-pedestrian accident. You state that the department has released basic information to the requestor. *See* Gov't Code § 552.108(c) (stating basic information about arrested person, arrest, or crime may not be withheld under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the remaining submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code excepts "[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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You claim that the submitted information pertains to an automobile-pedestrian accident that is pending criminal prosecution. We note that the submitted information reveals that the automobile-pedestrian accident at issue was investigated by the Texas Department of Public Safety, not the department. We also note that the information at issue is held by the department in relation to an animal complaint that the department was investigating at the time of the automobile-pedestrian accident. Where a governmental body possesses information relating to a pending case of another law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation

from the law enforcement entity or prosecutor that the law enforcement entity or prosecutor wishes to withhold the information. The department has provided a letter from the Fayette County Attorney's Office (the "county attorney") informing this office that the submitted information relates to a pending investigation and prosecution by the county attorney. The county attorney also informs us that the county attorney wishes to withhold the submitted information as release of the information would interfere with the investigation and prosecution of this case. Based upon these representations and our review, we find that section 552.108(a)(1) is applicable to the submitted information. *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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). The department may, therefore, withhold the submitted information on behalf of the county attorney pursuant to section 552.108(a)(1) 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.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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 356692

Enc. Submitted documents

c: Requestor
(w/o enclosures)