



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 24, 2009

Mr. Michael Kelly  
Assistant Criminal District Attorney  
Victoria County Criminal District Attorney's Office  
205 North Bridge Street, Suite #301  
Victoria, Texas 77901

OR2009-11852

Dear Mr. Kelly:

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# 353287.

The Victoria County District Attorney's Office (the "district attorney") received a request for the names and payment details of individuals who are involved in a specified case. You state you have released some of the requested information to the requestor. You claim that a portion of the requested information is excepted from disclosure under section 552.108 of the Government Code. We also understand you to claim that some of the requested information is subject to section 552.027. We have considered the submitted arguments and reviewed the submitted information.

You assert that "contract and payment information" pertaining to a particular individual is subject to section 552.027 of the Government Code, which provides:

- (a) A governmental body is not required under this chapter to allow the inspection of or to provide a copy of information in a commercial book or publication purchased or acquired by the governmental body for research purposes if the book or publication is commercially available to the public.
- (b) Although information in a book or publication may be made available to the public as a resource material, such as a library book, a governmental body

is not required to make a copy of the information in response to a request for public information.

(c) A governmental body shall allow the inspection of information in a book or publication that is made part of, incorporated into, or referred to in a rule or policy of a governmental body.

Gov't Code § 552.027. This section is designed to alleviate the burden of providing copies of commercially available books, publications, and resource materials maintained by governmental bodies, such as telephone directories, dictionaries, encyclopedias, statutes, and periodicals. You contend that the information at issue "has been published by the Victoria Advocate and is available commercially, thereby is excepted under [section 552.027]." You also assert that this information is available commercially through the filings of the appellate process. You state the information at issue consists of contract and payment information pertaining to a named individual. However, you have not demonstrated how contract and payment information consists of information in a publication that was purchased or acquired by the county for research purposes. Additionally, you have not provided this information for our review. Accordingly, we conclude you have failed to demonstrate the information at issue is subject to section 552.027. Because you have not provided this information for our review and have raised no exceptions to its disclosure, it must be released.

You also raise section 552.108(a)(1) for some of the requested information. 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." *Id.* § 552.108(a)(1). 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 submitted information relates to an aggravated perjury case that is presently under appeal. Based upon this representation, we conclude that release of the information you seek to withhold under section 552.108 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). Accordingly, the district attorney may withhold the information at issue under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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](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/cc

Ref: ID# 353287

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)