



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2010

Chief Frank Mooney
Ferris Police Department
201 South Church Street
Ferris, Texas 75125-2520

OR2010-00217

Dear Chief Mooney:

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# 371607.

The Ferris Police Department (the "department") received a request for 1) basic information pertaining to a specified incident and 2) the search warrant, search warrant affidavit, arrest warrant, arrest warrant affidavit, and the book-in report pertaining to the specified incident. You claim that the 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.

Initially, we note that you have not submitted any information responsive to second category of the request. Thus, to the extent any information responsive to the request for the search warrant, search warrant affidavit, arrest warrant, arrest warrant affidavit, and the book-in report existed on the date the department received the request, we assume you have released it. If you have not released any such information to the requestor, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Next, we note that much of the submitted incident report is not responsive to the instant request for information because it does not consist of basic information. *See* Open Records Decision No. 127 (summarizing types of information considered to be basic information). This ruling does not address the public availability of any information that is not responsive

to the request, and the department is not required to release that information in response to the request. Thus, we only address your argument for the requested basic 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[.]” Gov’t Code § 552.108(a)(1). However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). ORD 127. Thus, the department may not withhold the basic information under section 552.108. Accordingly, the responsive submitted information must be released to the requestor.

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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 371607

Enc. Submitted documents

c: Requestor
(w/o enclosures)