



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 3, 2010

Mr. Thomas A. Gwosdz
City Attorney
City of Victoria
P.O. Box 1758
Victoria, Texas 77902-1758

OR2010-06265

Dear Mr. Gwosdz:

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# 379043.

The City of Victoria (the "city") received a request for information pertaining to case number 2008-45707. You state the city released some information to the requestor. You state you will release some of the requested information to the requestor. You claim the remaining submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code and privileged under rule 192.5 of the Texas Rules of Civil Procedure.¹ We have considered your arguments and reviewed the submitted 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). Generally, a

¹You contend a portion of the submitted information is excepted from disclosure pursuant to section 552.101 of the Government Code in conjunction with the "attorney work product privilege." We note this office has concluded section 552.101 does not encompass discovery privileges. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990). We therefore address your argument under rule 192.5 of the Texas Rules of Civil Procedure.

governmental body claiming section 552.108(a)(1) 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 the submitted information relates to a case that was investigated by the city's police department that has been presented to the Victoria County District Attorney for prosecution. Based upon your representation and our review, we conclude the release of the information at issue 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, section 552.108(a)(1) is generally applicable to the information at issue.

We note section 552.108 is limited by section 552.108(c), which provides basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic front-page information refers to the information held to be public in *Houston Chronicle*, and includes, among other items, an identification and description of the complainant, a detailed description of the offense, and any property involved. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). The city must release basic information, even if the information does not literally appear on the front page of an offense or arrest report. Although you state you have released page one of case number 2008-45707, we note this page does not contain information sufficient to satisfy the requirement that basic information be released. *See* ORD 127. Accordingly, we determine the city must release a sufficient portion of case number 2008-45707 to satisfy the required release of basic information pursuant to *Houston Chronicle*. The city may withhold the remaining submitted information under section 552.108(a)(1).²

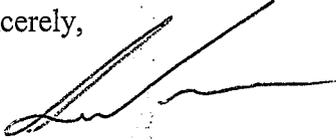
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²As our ruling is dispositive for the information subject to section 552.108(a)(1), we do not address your remaining arguments for this information, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code and rule 192.5 of the Texas Rules of Civil Procedure does not apply to criminal cases. Open Records Decision No. 597 (1991); TEX. R. CIV. P. 2.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 379043

Enc. Submitted documents

c: Requestor
(w/o enclosures)