



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2010

Mr. Dick H. Gregg, III
Gregg & Gregg, P.C.
16055 Space Center Boulevard, Suite 150
Houston, Texas 77062

OR2010-06464

Dear Mr. Gregg:

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# 378194.

The Kemah Police Department (the "department"), which you represent, received a request for information pertaining to a specified 9-1-1 call for service. You claim the submitted 9-1-1 dispatch report and 9-1-1 call recording are 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 of the Government Code provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Generally, a governmental body claiming subsection 552.108(a)(1) or subsection 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). In this instance, you state the submitted dispatch report and call recording should be withheld under section 552.108 because the individual who is the subject of the 9-1-1 call is the defendant in a pending criminal case in Galveston County. Where an agency is in the custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a different law enforcement agency, the custodian of the records may withhold the information only if it provides this office with (1) a demonstration that the information relates to the pending case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information. Thus, this office requires a representation from Galveston County explaining how release of the submitted information will interfere with its pending case. This office has not received any such representation. Accordingly, we conclude the department has failed to demonstrate the applicability of section 552.108(a)(1) or section 552.108(b)(1) to the submitted information. As you raise no other exceptions to disclosure, the submitted 9-1-1 dispatch report and 9-1-1 call recording must be released in their entirety.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 378194

Enc. Submitted documents

cc: Requestor
(w/o enclosures)