



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 18, 2010

Mr. Arturo D. Rodriguez, Jr.
Russell & Rodriguez, L.L.P.
1633 Williams Drive, Building 2, Suite 200
Georgetown, Texas 78628

OR2010-07135

Dear Mr. Rodriguez:

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# 384924.

The City of Liberty Hill (the "city"), which you represent, received two requests for information pertaining to a specified incident. You state the city has released some of the requested information. 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 the submitted information contains a document filed with a court, which is expressly public under section 552.022(a)(17) of the Government Code. *See* Gov't Code § 552.022(a)(17). Such information must be released unless it is expressly confidential under "other law." You claim the court-filed document is excepted from disclosure under section 552.108 of the Government Code. However, section 552.108 is a discretionary exception that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(17). *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, the city may not withhold the court-filed document, which we have marked, under section 552.108 of the Government Code. As no other exceptions against its disclosure are raised, the marked court-filed document must be released.

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 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 that the remaining information relates to an open and pending criminal investigation by

the city's police department. Based upon your representation and our review, we conclude that the release of the remaining information 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, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the city must release the marked court-filed document subject to section 552.022(a)(17) of the Government Code. The city may withhold the remaining information under 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, toll free, at (888) 672-6787.

Sincerely,


Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 384924

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)