



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 17, 2010

Mr. Flint Matzke  
Assistant County Attorney  
Brazos County Attorney's Office  
300 East 26<sup>th</sup> Street, Suite 325  
Bryan, Texas 77803-5327

OR2010-17420

Dear Mr. Matzke:

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# 400738.

The Brazos County Precinct Four Constable (the "constable") received a request for twelve categories of information pertaining to a specified traffic citation. You state will release information responsive to the first and seventh category of requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered your claimed exceptions and reviewed the submitted information, portions of which are representative samples.<sup>1</sup> We have also received and considered comments submitted by the requestor. See Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, you state the constable does not maintain any formatted database collections of information responsive to the third and twelfth categories of requested information. You also

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<sup>1</sup>We assume the "representative samples" of records submitted to this office are truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

state information responsive to the eighth through the tenth category of requested information does not exist and that the constable does not maintain any information responsive to the fifth, sixth, and eleventh category of requested information. The Act does not require a governmental body to make available information that did not exist when the request was received nor does it require a governmental body to compile information or prepare new information. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986). Likewise, a governmental body is not required to produce the responsive information in the format requested, a list, or create new information to respond to the request for information. *AT&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 676 (Tex.1995); *Fish v. Dallas Indep. Sch. Dist.*, 31 S.W.3d 678, 681 (Tex. App.—Eastland 2000, pet. denied); Attorney General Opinion H-90 (1973); Open Records Decision Nos. 452 at 2-3 (1986), 342 at 3 (1982), 87 (1975). However, a governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). We assume the constable has made a good-faith effort to do so.

Next, we note a portion of the submitted information, which we have marked, is not responsive to the request for information because it does not pertain to the twelve categories of requested information. The constable need not release non-responsive information in response to this request, and this ruling will not address that 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 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 responsive information relates to an active criminal case in a Justice of the Peace court that is currently pending trial. Furthermore, you state a portion of the responsive information pertains to the officer who is the complainant in the pending prosecution and could be used to impeach the officer’s testimony at trial. Based on your representations and our review, we conclude the release of the responsive 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.] 975), *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, we find the constable may withhold the responsive information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure.

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

Sincerely,



Christina Alvarado  
Assistant Attorney General  
Open Records Division

CA/tp

Ref: ID# 400738

Enc. Submitted documents

c: Requestor  
(w/o enclosures)