



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 14, 2011

Mr. Jason D. King  
Akers & Boulware-Wells, LLP  
6618 Sitio Del Rio Boulevard, Building E, Suite 102  
Austin, Texas 78730

OR2011-18412

Dear Mr. King:

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# 438921.

The City of Glenn Heights (the "city"), which you represent, received a request for the statements of elected/appointed officer and signed oaths of office for city council members, the mayor, the police chief and specified supervisors, a specified police officer, and all municipal court personnel occupying office when the requestor's traffic stop was made. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample information.<sup>1</sup>

Initially, we note the Act applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). However, a "governmental body" under the Act "does not include the judiciary." *Id.* § 552.003(1)(B). Information that is "collected, assembled or maintained by . . . the judiciary" is not subject to the Act but is instead "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is 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.

rules.” *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under section 552.003(1)(B) prior to enactment of section 552.0035). The submitted information includes official oaths of office that were required to be taken by an elected or appointed official pursuant to the Texas Constitution. *See* TEX. CONST. art. XVI, § 1. The municipal court personnel are required to maintain their oaths of office with the official records of the office. *See id.* We therefore determine that the municipal court personnel’s oaths of office constitute judicial records as defined under Rule 12.2 of the Rules of Judicial Administration. *See* Tex. R. Jud. Admin. 12.2(d) (defining “judicial record”). Thus, the required public disclosure of the information at issue is governed by rule 12 of the Rules of Judicial Administration, not the Act. *See* Gov’t Code § 552.0035(a). This office does not address questions under those rules. *See* Tex. R. Jud. Admin. 12.9 (providing procedures for appeal of denial of access to judicial records with the Administrative Director of the Office of Court Administration). Therefore, the Act does not apply to the municipal court personnel’s oaths of office and need not be released in response to this request.<sup>2</sup>

You claim the remaining requested information is excepted under section 552.108 of the Government Code. Section 552.108 provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] 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 [required public disclosure] 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). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. Section 552.108(b)(1) protects internal law enforcement and prosecution records, the release of which would interfere with ongoing law enforcement and prosecution efforts in general. A governmental body claiming subsection 552.108(a)(1) or subsection 552.108(b)(1) must

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<sup>2</sup>As our ruling is dispositive for this information, we do not address your remaining arguments against its disclosure.

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). You state the remaining information at issue pertains to a pending criminal prosecution. However, the remaining information does not contain any information related to the criminal investigation. You do not explain how release of these documents would interfere with the detection, investigation, or prosecution of this crime or with law enforcement or prosecutorial efforts in general. Accordingly, the remaining information may not be withheld under section 552.108(a)(1) or section 552.108(b)(1) of the Government Code. As you raise no further exceptions to disclosure of this information, it must be released.

In summary, the municipal court personnel's oaths of office are not subject to the Act and need not be released in response to this request. The remaining requested information must be released.

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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/ag

Ref: ID# 438921

Enc. Submitted documents

c: Requestor  
(w/o enclosures)