



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 28, 2011

Mr. Peter Scott
Assistant City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2011-19045

Dear Mr. Scott:

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# 440647 (City ID# 447).

The Wichita Falls Police Department (the "department") received a request for all citations issued by a named officer on a specified date and location, the total revenue from these citations, the name and rank of the named officer's supervisors, the named officer's traffic enforcement quota, and information pertaining to the named officer's pay related to citations. You state you have released the requested information in Exhibit 2 to the requestor. You state the department has no information pertaining to some of the requested categories of information.¹ You claim that the requested revenue records are records of the judiciary and therefore are not subject to the Act pursuant to section 552.003 of the Government Code. You claim that Exhibit 3 is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, we address the department's assertion that some of the requested documents are records of the judiciary and therefore not subject to the Act. The Act generally requires the disclosure of information maintained by a "governmental body," but the judiciary is

¹We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

expressly excluded from the requirements of the Act. *See* Gov't Code § 552.003(1)(B). You have submitted an affidavit from the Wichita Falls Municipal Court Prosecutor (the "prosecutor") stating that the requested revenue records are "maintained solely by the Wichita Falls Municipal Court as judicial records." Based on this representation, we agree that the requested revenue records are records of the judiciary and are not subject to disclosure under the Act.

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[.]" *Id.* § 552.108(a)(1). 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, and provide an affidavit from the prosecutor confirming, that Exhibit 3 relates to a pending criminal prosecution. Based upon these representations and our review, we conclude that the release of Exhibit 3 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we conclude the department may withhold the Exhibit 3 pursuant to 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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/ag

Ref: ID# 440647

Enc. Submitted documents

c: Requestor
(w/o enclosures)