



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 21, 2012

Ms. Josette Flores  
Assistant City Attorney  
City of El Paso  
2 Civic Center Plaza, 9th Floor  
El Paso, Texas 79901

OR2012-02669

Dear Ms. Flores:

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# 447799.

The City of El Paso (the "city") received a request for animal-related complaints or enquires related to a specified address from August through December of 2011. You state the city is releasing some of the requested information, but claim 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.

Section 552.108 of the Government Code provides 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;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(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;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

Gov't Code § 552.108. Generally, a governmental body claiming an exception under section 552.108 must reasonably explain how this section applies to the responsive information. *See Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977) (governmental body asserting law enforcement exception to disclosure must explain how release of information would interfere with law enforcement). You claim the information identifying the complainant in the information at issue is excepted from disclosure under section 552.108 because “the complainant clearly expresses a fear of retaliation from the dog owner[.]” You also generally assert “[f]ear of possible intimidation or harassment from the dog owner could harm the

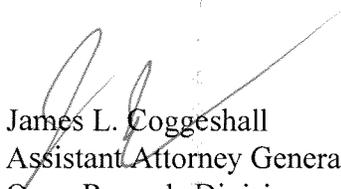
prospect of future cooperation between citizens and law enforcement officers” and release of this information “would unduly interfere with law enforcement, as the complainant would not feel confident that they [sic] could freely report crime to law enforcement without negative reprisals[.]” This office has previously determined that, when it can be established from an examination of the facts of a particular case that disclosure of witness identities and statements might subject the witnesses to possible intimidation or harassment, that information may be excepted from disclosure under the predecessor to section 552.108. *See, e.g.,* Open Records Decision Nos. 329 (1982), 313 (1982), 297 (1981). However, after review of your arguments and the submitted information, we find that the city has not established releasing the complainant’s identifying information would subject this individual to possible retaliation and intimidation. Therefore, you may not withhold any of the submitted information under section 552.108 on that ground.

You also indicate the submitted information is excepted under section 552.108 because its release would interfere with the detection, investigation, and prosecution of crime. However, you have not asserted any particular subsection of section 552.108. *See* Gov’t Code § 552.301(e)(1)(A). Nor have you indicated the responsive information relates to a pending matter or one that resulted in a conviction or otherwise concluded. As you have not demonstrated which subsections under section 552.108, if any, apply in this instance, we find you have failed to establish any of the submitted information is excepted from disclosure under section 552.108. Therefore, the city must release the submitted information to the requestor.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/ag

Ref: ID# 447799

Enc. Submitted documents

c: Requestor  
(w/o enclosures)