



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 23, 2012

Mr. Amos L. Barton  
District Attorney  
198th Judicial District  
P.O. Box 291285  
Kerrville, Texas 78029

OR2012-02785

Dear Mr. Barton:

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# 446280.

The 198th Judicial District Attorney's Office (the "district attorney's office") received a request for (1) all ticket and citation books maintained by the district attorney's office, including those by two named investigators during a specified time period, and (2) all time sheets submitted by the two named investigators, from January 1, 2009, to the date of the request. You 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 representative sample of information.<sup>1</sup>

Initially, we note the district attorney's office did not submit the requested ticket or citation books for our review. Thus, to the extent such information existed and was maintained by the district attorney's office on the date the district attorney's office received the request for information, we presume the district attorney's office has released it. If not, the district attorney's office must do so at this time.<sup>2</sup> See Gov't Code §§ 552.301, .302; see also Open

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<sup>1</sup>We assume 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 those records contain substantially different types of information than those submitted to this office.

<sup>2</sup>We note the Act does not require a governmental body to release information that did not exist when it received 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), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983). However, a governmental body has a duty to make a good faith effort to relate a request for information to information that the governmental body holds. See Open Records Decision No. 561 at 8-9 (1990).

Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release the information as soon as possible).

You state the submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(1) 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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state release of the submitted information could hamper efforts to detect, investigate, and prosecute crime. Upon review, however, we find you have failed to demonstrate how release of the information at issue would interfere with a particular criminal investigation or prosecution. *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, the district attorney may not withhold any of the submitted information under section 552.108(a)(1) of the Government Code. As no other arguments against disclosure of the submitted information have been raised, it 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,



Michelle R. Garza  
Assistant Attorney General  
Open Records Division

MRG/dls

Ref: ID# 446280

Enc. Submitted documents

c: Requestor  
(w/o enclosures)