



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 6, 2012

Mr. Arturo D. Rodriguez, Jr.
For City of Liberty Hill
Russell & Rodriguez, L.L.P.
Building 2, Suite 200
1633 Williams Drive
Georgetown, Texas 78628

OR2012-03335

Dear Mr. Rodriguez:

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# 447061.

The City of Liberty Hill (the "city"), which you represent, received a request for all information pertaining to a specified police report. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

You raise section 552.108 of the Government Code, which provides, in part:

¹Although you initially raised section 552.101 of the Government Code, you have not submitted any arguments explaining how this exception applies to the submitted information. Therefore, we assume you have withdrawn this exception. See Gov't Code §§ 552.301, .302.

(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; [or]

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in a conviction or deferred adjudication. A governmental body claiming an exception under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt* 551 S.W.2d 706 (Tex. 1977). We understand you to raise section 552.108(a)(2) to withhold the identities of witnesses and informants in the submitted information. You inform us the case at issue is “closed and not currently prosecuted.” Thus, we find you have demonstrated the submitted information relates to a closed investigation that did not result in conviction or deferred adjudication. Accordingly, we conclude section 552.108(a)(2) is applicable to the identifying information of witnesses, which we have marked.

We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), and includes the identity of the complainant and a detailed description of the offense. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Accordingly, the city may withhold the identifying information of witnesses, which we have marked, under section 552.108(a)(2) of the Government Code. The remaining 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,

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,

A handwritten signature in cursive script that reads "Sean Opperman".

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 447061

Enc. Submitted documents

c: Requestor
(w/o enclosures)