



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 7, 2012

Mr. Fred M. Barker  
First Assistant County Attorney  
Parker County  
118 West Columbia Street  
Weatherford, Texas 76086

OR2012-06668

Dear Mr. Barker:

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# 452789.

The Parker County Sheriff's Department (the "sheriff's department") received a request for information related to a specified incident. You state you have released some information to the requestor. You state the sheriff's department does not maintain some of the requested information and that some of the requested information did not exist at the time of the request.<sup>1</sup> You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.<sup>2</sup> We have considered the exceptions you claim and reviewed the submitted information.

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[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why this exception is

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<sup>1</sup>In responding to a request for information under the Act, a governmental body is not required to disclose information that did not exist at the time the request was received. *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), 563 at 8 (1990), 555 at 1-2 (1990).

<sup>2</sup>Although you raise section 552.101 of the Government Code in conjunction with section 552.130 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision Nos. 676 at 1-2 (2002), 575 at 2 (1990).

applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked relates to an ongoing criminal investigation by the sheriff's department. Based on your representations and our review, we find that release of the information you have marked 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 find section 552.108(a)(1) is applicable to the information you 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* and includes the identities of the arresting and investigating officers. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130. *Id.* In this instance, the submitted information includes computer-assisted-dispatch (“CAD”) records. In Open Records Decision No. 649 (1996), this office concluded information contained in a CAD report is substantially the same as basic information. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (there is no qualitative difference between information contained in radio cards or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*; thus, such information is generally public). We note portions of the information you have marked under section 552.108 consist of the identifying information of an investigating officer in the case at issue. This information may not be withheld under section 552.108. Accordingly, with the exception of basic information, the sheriff's department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.<sup>3</sup>

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.<sup>4</sup>

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<sup>3</sup>As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

<sup>4</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Gov't Code § 552.152. We understand you to contend release of the undercover officer's identifying information would endanger the officer's life. Based on your representations and our review of the information at issue, we conclude the sheriff's department must withhold the undercover officer's identifying information under section 552.152 of the Government Code.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Accordingly, the sheriff's department may withhold the social security number you have marked under section 552.147.<sup>5</sup>

In summary, with the exception of basic information, the sheriff's department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The sheriff's department's must withhold the name of the undercover officer you have marked under section 552.152 of the Government Code. The sheriff's department may withhold the social security number you have marked under section 552.147 of the Government Code. As no further exceptions are raised, 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](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,



Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/dls

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<sup>5</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

Ref: ID# 452789

Enc. Submitted documents

c: Requestor  
(w/o enclosures)