



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 17, 2012

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2012-11046

Dear Ms. Rangel:

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# 458989.

The Fort Bend Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified case number. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains documents signed by a magistrate that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a). Although you raise section 552.108 of the Government Code for this information, this is a discretionary exception that may be waived and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). As such, section 552.108 does not make information confidential for the purposes of section 552.022, and the sheriff's office may not withhold the information subject to section 552.022 on that basis. Although you also raise section 552.101 of the Government Code, which can make information confidential for purposes of section 552.022(a), the court documents do not

contain any information that falls within the scope of this exception. Therefore, the court documents we have marked must be released pursuant to section 552.022(a)(17) of the Government Code.

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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You state, and provide a letter from the Stafford Police Department (“Stafford”) confirming, that Stafford objects to release of the remaining information because it relates to an ongoing criminal investigation. Based on these representations and our review, we find the release of the remaining information 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); *see also* Open Records Decision No. 474 at 4-5 (1987) (section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct). Accordingly, we find section 552.108(a)(1) is generally applicable to the remaining information.

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff’s office may withhold the remaining information from disclosure under section 552.108(a)(1) of the Government Code.

In summary, the the court documents we have marked must be released pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the sheriff’s office may withhold the remaining information from disclosure under 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/som

Ref: ID# 458989

Enc. Submitted documents

cc: Requestor
(w/o enclosures)