



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 8, 2013

Ms. Lois A. Rockefeller
Messer, Rockefeller & Fort, PLLC
4400 Buffalo Gap Road, Suite 2800
Abilene, Texas 79606

OR2013-02262

Dear Ms. Rockefeller:

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# 479439.

The City of Breckenridge (the "city"), which you represent, received a request for the daily log report of the city's police department (the "department") during a specified time period and information pertaining to a specified incident. You claim some of the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. Additionally, you provide documentation showing you have notified seven individuals of their rights to submit comments to this office why some of the submitted information should not be released.¹ See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments from the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the marked portions of the daily log submitted as Exhibit B are not responsive to the instant request for information because the incidents did not occur during the specified time period. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.²

¹As of the date of this letter, this office has not received comments from any third party explaining why any of the submitted information should not be released.

²As our ruling is dispositive for this information, we need not address your argument against its disclosure.

Section 552.108(a)(1) of the Government Code exempts 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[.]” *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state Exhibits C, D, E, and G pertain to active criminal investigations being conducted by the Texas Rangers and by the department. Based on your representation, we conclude the release of the information at issue 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). Thus, the city may withhold Exhibits C, D, E, and G under section 552.108(a)(1) of the Government Code.

In summary, the city may withhold Exhibits C, D, E, and G under section 552.108(a)(1) of the Government Code. The city must release the responsive information in Exhibit B.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 479439

Enc. Submitted documents

c: Requestor
(w/o enclosures)