



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 31, 2013

Mr. Habib H. Erkan, Jr.
For the City of Shavano Park
Denton, Navarro, Rocha & Bernal, P.C.
2517 North Main Avenue
San Antonio, Texas 78212

OR2013-09037

Dear Mr. Erkan:

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# 488837.

The City of Shavano Park (the "city"), which you represent, received a request for basic information on every traffic citation issued by the city for the fifteen days prior to the date of the request. You claim that the requested information is not subject to the Act and, in the alternative, is excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted representative sample of information.¹

The Act only applies to information that is "collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business by a governmental body." Gov't Code § 552.002(a)(1). The Act does not apply to records of the judiciary. *See id.* § 552.003(1)(B) (definition of "governmental body" under Act specifically excludes the judiciary). Information that is "collected, assembled, or maintained by or for the judiciary"

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

is not subject to the Act. *Id.* § 552.0035(a); *see also* TEX. SUP. CT. R. 12. Consequently, records of the judiciary need not be released under the Act. *See* Attorney General Opinion DM-166 (1992). *But see Benavides v. Lee*, 665 S.W.2d 151 (Tex. App.—San Antonio 1983, no writ); Open Records Decision No. 646 at 4 (1996) (“function that a governmental entity performs determines whether the entity falls within the judiciary exception to the . . . Act”). You assert the requested information constitutes judicial records. However, upon review of the information at issue, we note the city’s police department maintains the requested information. Consequently, we determine the city has failed to establish the information at issue was collected, assembled, or maintained by or for the judiciary. Accordingly, the requested information is subject to the Act and we will consider your argument against disclosure.

Next, we note that some of the submitted information is not responsive to the request for information. In this instance, the requestor only seeks basic information. Accordingly, any additional information beyond basic information is not responsive to the request. 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 that information in response to the request.

You assert the requested basic information is excepted from disclosure under section 552.108 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 claiming section 552.108 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 the requested information relates to a group of pending criminal prosecutions, and release of this 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).

We note, however, the requested information consists of traffic citations. The city has provided copies of these forms to the cited individuals. You have not explained how releasing this information, which has already been seen by the cited individuals, would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Therefore, the city may not withhold the requested basic information under section 552.108(a)(1). As you raise no further exceptions to disclosure, the requested 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 black ink, appearing to read 'T. Neal', written in a cursive style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 488837

Enc. Submitted documents

c: Requestor
(w/o enclosures)