



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 21, 2013

Ms. Elizabeth Hanshaw Winn
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767-1748

OR2013-18222

Dear Ms. Winn:

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# 502966.

The Travis County Attorney's Office (the "county attorney's office") received a request for all documents related to two specified criminal charges filed against the requestor's client. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor indicates the county attorney's office failed to comply with section 552.301 of the Government Code by failing to timely seek a ruling from this office regarding his written request for information. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply not later than the tenth business day after the date of receiving the written request. *See* Gov't Code § 552.301(b). You inform us the requestor asserts the present request for information was sent via facsimile to the county attorney's office on May 29, 2013, and the requestor has provided a copy of a confirmation that the facsimile was sent. However, you represent to this office that the facsimile number to which the request was sent is the incorrect facsimile number for the county attorney's office's public information officer or the officer's designee. *See id.* § 552.301(c) (written request made by facsimile must be sent to the governmental body's officer for public information, or the officer's designee, in order to trigger the deadline provided by the Act). Accordingly, you state the county attorney's

office first received the request on August 15, 2013, as a result of being served with a lawsuit regarding the request. The determination of the date the county attorney's office received the request for information is a question of fact. This office cannot resolve factual disputes in the opinion process. *See* Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986). Where a fact issue is not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernable from the documents submitted for our inspection. *See* ORD 552 at 4. Thus, for the purposes of calculating the county attorney's office's response deadlines, we must rely on the county attorney's office representation that it received the request for information on August 15, 2013. Accordingly, the county attorney's office's ten-business-day deadline was August 29, 2013. Therefore, we conclude the county attorney's office complied with the requirements of section 552.301 of the Government Code. As such, we will consider your argument against disclosure of 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 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 submitted information relates to a pending criminal prosecution and release of the information would interfere with that prosecution. *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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable.

However, section 552.108 does not except from disclosure basic information about a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. Thus, with the exception of basic information, which must be released, the county attorney's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

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.

¹We note the basic information being released includes the arrestee's social security number. 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 an attorney general decision under the Act. *See* Gov’t Code § 552.147(b).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script that reads "Britni Fabian".

Britni Fabian
Assistant Attorney General
Open Records Division

BF/dls

Ref: ID# 502966

Enc. Submitted documents

c: Requestor
(w/o enclosures)