



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2013

Mr. Robert E. Etlinger
Assistant County Attorney
Guadalupe County
211 West Court Street
Seguin, Texas 78155-5779

OR2013-20177

Dear Mr. Etlinger:

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# 506191.

The Guadalupe County Sheriff's Department (the "sheriff's department") received a request for all records concerning a named individual during a specified period of time and specified policies and procedures of the sheriff's department. You state you have released some of the requested information. 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 submitted information includes court-filed documents, which we have marked, that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although the sheriff's department seeks to withhold the marked court-filed documents under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests 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), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Therefore, the marked

court-filed documents may not be withheld under section 552.108. However, we will address your arguments against disclosure of the remaining 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 remaining information relates to a pending criminal case. Based on your representation and our review, we conclude 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, we note, and you acknowledge, 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 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which you state you will release, the sheriff’s department may withhold the remaining information under section 552.108(a)(1) of the Government Code.¹

In summary, the sheriff’s department must release the court-filed documents we have marked under section 552.022(a)(17) of the Government Code. With the exception of the basic information, which you state you will release, the sheriff’s department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

¹As our ruling is dispositive, we need not consider your remaining argument against disclosure of the remaining information.

²We note the information being released in this instance includes information that may be confidential with respect to the general public. *See* Gov’t Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person’s agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the sheriff’s department receives another request for this information from a different requestor, the sheriff’s department must again seek a ruling from this office.

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.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 black ink, appearing to read "N. A. Ybarra".

Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 506191

Enc. Submitted documents

c: Requestor
(w/o enclosures)