



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 10, 2014

Ms. Janna Lindig
County Attorney
Bandera County
P.O. Box 656
Bandera, Texas 78003

OR2014-20438

Dear Ms. Lindig:

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# 542592.

The Bandera County Attorney's Office (the "county attorney's office") received a request for any information regarding the seizure of dogs by Bandera County for the months of July and August, 2014. The county attorney's office will make some of the responsive information available to the requestor. 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.

You assert the submitted information is excepted under section 552.108 of the Government Code, which provides the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication; [or]

...

(4) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution;

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication; or

(3) the internal record or notation:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or

(B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(a)(1)-(2), (4), (b). Subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

You claim the information in Exhibits A and C is excepted from disclosure under subsection 552.108(a)(2) of the Government Code. A governmental body claiming

section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108, .301(e)(1)(A). You state the information in Exhibits A and C relates to a case that is “still being investigated” and “has not been filed with the County Clerk’s Office,” and therefore “the investigation has not yet resulted in a conviction or deferred adjudication.” Upon review, we conclude you have not shown that the information at issue relates to a case that has concluded in a final result other than a conviction or deferred adjudication. Thus, we find you have failed to demonstrate the applicability of subsection 552.108(a)(2) of the Government Code to the information at issue. *See id.* Therefore, we find you have not established Exhibits A and C are excepted from disclosure under subsection 552.108(a)(2) of the Government Code, and those exhibits may not be withheld on that basis.

You claim the information in Exhibit B is excepted from disclosure under subsection 552.108(a)(4) of the Government Code. You state the information you have marked in Exhibit B was prepared by the county attorney’s office and reflects its mental impressions and legal reasoning. Upon review, we agree the information at issue reflects the mental processes or legal reasoning of an attorney representing the county. Therefore, we conclude the information you have marked in Exhibit B is subject to subsection 552.108(a)(4) of the Government Code. Thus, the county attorney’s office may withhold the information you have marked in Exhibit B under subsection 552.108(a)(4) of the Government Code.¹

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release.² Gov’t Code § 552.130. Upon review, we find the county attorney’s office must withhold the information we have marked under section 552.130 of the Government Code.

In summary, the county attorney’s office may withhold the information you have marked in Exhibit B under subsection 552.108(a)(4) of the Government Code. The county attorney’s office must withhold the information we have marked under section 552.130 of the Government Code. The remaining information must be released.

¹As our ruling is dispositive, we do not address your remaining argument to withhold this information.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 that reads "Britni Fabian". The signature is written in a cursive, flowing style.

Britni Fabian
Assistant Attorney General
Open Records Division

BF/ac

Ref: ID# 542592

Enc. Submitted documents

c: Requestor
(w/o enclosures)