



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 26, 2009

Ms. Evelyn Njuguna
Assistant City Attorney
City of Houston - Legal Department
P.O. Box 368
Houston, Texas 77001

OR2009-00946

Dear Ms. Njuguna:

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# 337272.

The Houston Police Department (the "department") received a request for police reports filed by the requestor in the last three years. You state that some of the requested information will be provided to the requestor, but claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 provides in part:

(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; [or]
- (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[.]

Gov't Code § 552.108(a)(1), (2). Subsection 552.108(a)(1) protects information that pertains to a 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. 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). A governmental body that claims 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* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A).

In this instance, you state that Exhibits 2, 3, 4, and 6 are inactive criminal investigations pending additional leads. However, you also state that the investigations may be reactivated once additional leads are developed. Based upon these representations, we conclude release of Exhibits 2, 3, 4, and 6 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, Exhibits 2, 3, 4, and 6 are subject to section 552.108(a)(1). You also inform this office Exhibit 5 pertains to a case that concluded in a final result other than conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to Exhibit 5.

We note, however, basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold Exhibits 2, 3, 4, and 6 pursuant to section 552.108(a)(1) and Exhibit 5 pursuant to section 552.108(a)(2). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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 at (512) 475-2497.

Sincerely,

Paige Savoie

Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 337272

Enc. Submitted documents

cc: Requestor
(w/o enclosures)