



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2009

Ms. Cecilia Gamez
Crime Records Bureau
City of McAllen
P.O. Box 200
McAllen, Texas 78501

OR2009-02069

Dear Ms. Gamez:

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# 339248.

The McAllen Police Department (the "department") received a request for a specified police report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that the submitted information relates to an investigation which led to no charges being filed and therefore, did not result in conviction or deferred adjudication. Based on your representation, we conclude that section 552.108(a)(2) is applicable to the submitted information.

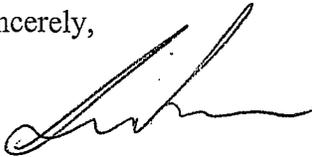
As you acknowledge, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976)

(summarizing types of information considered to be basic information). Basic information includes the identification and description of the complainant. *See Houston Chronicle*, 531 S.W.2d at 187; ORD 127. The submitted report contains information about an alleged sexual assault. Generally, information that tends to identify a victim of a sexual assault is excepted from disclosure pursuant to section 552.101 in conjunction with the common-law right to privacy. *See Open Records Decision Nos. 440 (1986), 393 (1983), and 339 (1982)*. Although the submitted information is generally subject to common-law privacy, the requestor is the individual to whom the private information pertains. As such, the requestor has a special right of access to private information concerning herself under section 552.023 of the Government Code. *See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987)* (privacy theories not implicated when individual requests information concerning herself).¹ Thus, with the exception of basic information, which you state you have released, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eb

¹Section 552.023 of the Government Code provides that a governmental body may not deny access to a person or a person's representative to whom the information relates on the grounds that the information is considered confidential under privacy principles. Gov't Code § 552.023(b). If the department receives another request for this information from a person who would not have a special right of access to this information, then the department should resubmit this same information and request another decision. *See Gov't Code §§ 552.301(a), .302; Open Records Decision No. 673 (2001)*.

Ref: ID# 339248

Enc. Submitted documents

c: Requestor
(w/o enclosures)