



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 10, 2009

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-07998

Dear Ms. McClellan:

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# 345632 (DPS Request No. 2009-2353.)

The Dallas Police Department (the "department") received a request for two specified police reports. You claim that the requested 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.

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that requested reports relate to pending criminal investigations. However, we note that both reports involve conduct that occurred on September 13, 2003. The statute of limitations for the offense described in report number 697813M is two years. *See* Penal Code § 22.01(b) (assault offenses under section 22.01(a) are class A misdemeanors); Crim. Proc. Code art. 12.02 (indictment for misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward). The statute of limitations for the offense

described in report number 697727M is five years. *See* Penal Code § 30.02(c)(2) (burglary is felony of second degree if committed in habitation); Crim. Proc. Code art. 12.01(4)(A) (indictment for burglary may be presented within five years from the date of the commission of the offense, and not afterward). Thus, the limitations period has passed in both cases. You have not informed this office that any criminal charges were filed within the limitations period in either case. Furthermore, you have not otherwise explained how release of these reports would interfere with the detection, investigation, or prosecution of crime. Thus, the submitted reports may not be withheld under section 552.108(a)(1) of the Government Code. As you raise no further arguments against disclosure, the submitted information must be released to the requestor.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.

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 345632

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note that the information being released contains social security numbers. Section 552.147 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 a decision from this office under the Act.