



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 2, 2009

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-13899

Dear Ms. Chatterjee:

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# 357474.

The University of Texas at San Antonio (the "university") received a request for report number 2007-467B and "any subsequent reports and follow-ups." You claim marked portions of the submitted incident report are excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Section 552.108(a)(2) 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 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)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert, and provide

a letter from the university assistant chief of police stating, that the information you have marked under section 552.108(a)(2) pertains to a concluded investigation that did not result in conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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 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), and includes a detailed description of the offense. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note the information you have marked for release in the narrative section of the report does not include a detailed description of the offense. Therefore, the university must release sufficient portions of the narrative section of the report to encompass a detailed description of the offense. Accordingly, with the exception of basic information, including a detailed description of the offense, the university may withhold the information you have marked under section 552.108(a)(2) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure except to note that the protections of section 552.117 only apply to records a governmental body holds in an employment capacity. See Gov't Code §§ 552.024, .117.

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, toll free, at (888) 672-6787.

Sincerely,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 357474

Enc. Submitted documents

c: Requestor
(w/o enclosures)