



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 26, 2010

Director Sgt. Esmeralda Guerra
Crime Records Bureau
McAllen Police Department
P.O. Box 220
McAllen, Texas 78505-0220

OR2010-05916

Dear Director Sgt. Guerra:

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# 378249.

The McAllen Police Department (the "department") received two requests for information, each requestor seeking "all police reports against" the requestor. You state that some responsive information has been released. You claim that 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.

Section 552.108(a)(1) 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 claiming section 552.108 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). You state that report numbers 2009-120680, 2008-114278, 2008-110804, and 2008-096300 relate to pending criminal cases. Based on your representation and our review of the information at issue, we find that the department has demonstrated that release of report numbers 2009-120680, 2008-114278, 2008-110804, and 2008-096300 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, we conclude that the department has demonstrated that

section 552.108(a)(1) of the Government Code is generally applicable to report numbers 2009-120680, 2008-114278, 2008-110804, and 2008-096300.

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. *See* 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .302(e)(1)(A). You state that report number 2008-074207 pertains to a concluded investigation that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we conclude that the department has demonstrated that section 552.108(a)(2) is applicable to this report.

However, 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See id.* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information that must be released, the department may withhold report numbers 2009-120680, 2008-114278, 2008-110804, and 2008-096300 under section 552.108(a)(1) of the Government Code and report number 2008-074207 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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 378249

Enc. Submitted documents

c: Requestors
(w/o enclosures)