



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 4, 2013

Mr. Mark G. Daniel  
For City of Watauga  
Evans, Daniel, Moore, Evans & Lazarus  
115 West Second Street, Suite 202  
Fort Worth, Texas 76102

OR2013-03631

Dear Mr. Daniel:

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# 484394 (Watauga PIR No. 13-46).

The Watauga Police Department (the "department"), which you represent, received a request for information pertaining to a specified address during a specified time period.<sup>1</sup> You state the department has provided the requestor with some of the requested information. You also state the department will redact the telephone numbers and addresses of 9-1-1 callers pursuant to Open Records Letter No. 2011-17222 (2011).<sup>2</sup> You claim the remaining 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(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

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<sup>1</sup>You inform us the department sought and received clarification of the request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

<sup>2</sup>Open Records Letter No. 2011-17222 is a previous determination issued to the department authorizing the department to withhold the originating telephone numbers and addresses of 9-1-1 callers provided by a 9-1-1 service supplier under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code without requesting a decision from this office.

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). Generally, 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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 12WP017672 relates to an open criminal prosecution pending in the city’s municipal court. Based upon your representation, we conclude the release of report number 12WP017672 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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to report number 12WP017672.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report numbers 12WP009227 and 11-1801 relate to closed cases that concluded in final results other than conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) is applicable to report numbers 12WP009227 and 11-1801.

However, 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*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state has been released, the department may withhold report number 12WP017672 under section 552.108(a)(1) of the Government Code and report numbers 12WP009227 and 11-1801 under section 552.108(a)(2) of the Government Code. As you raise no exceptions against the release of the remaining information, it must be released.

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](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,

A handwritten signature in black ink, appearing to read 'Ana Carolina Vieira', with a long horizontal stroke extending to the right.

Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/ag

Ref: ID# 484394

Enc. Submitted documents

c: Requestor  
(w/o enclosures)