



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 12, 2013

Ms. Judi S. Rawls
Police Administration Legal Counsel
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2013-04107

Dear Ms. Rawls:

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# 481380.

The Beaumont Police Department (the "department") received a request for information related to case number 1993-19885. You claim 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) of the Government Code provides in relevant part the following:

Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]
- (2) 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)(1)-(2). Subsection 552.108(a)(1) is mutually exclusive of subsection 552.108(a)(2). Subsection 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, subsection 552.108(a)(2)

protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

You claim the submitted information is excepted from disclosure under subsection 552.108(a)(2) of the Government Code. A governmental body claiming subsection 552.108(a)(2) must demonstrate that the information at issue relates to a criminal investigation that has 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 the submitted information relates to a case that did not result in conviction or deferred adjudication. However, you also state release of the submitted information “would interfere with the further detection, investigation or prosecution of crime in a matter that is within the statute of limitations period (homicide) and is subject to being filed for criminal prosecution.” Upon review, we conclude you have provided this office with conflicting arguments regarding the applicability of section 552.108 of the Government Code to the submitted information. *See id.* § 552.301(e)(2) (governmental body must label copy of information at issue to indicate which exceptions apply to which parts of the information). Therefore, we find you have not established the submitted information is excepted from disclosure under section 552.108 of the Government Code, and it may not be withheld on this basis. As you raise no further exceptions to disclosure, the department must release the submitted information.

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/tch

Ref: ID# 481380

Enc. Submitted documents

c: Requestor
(w/o enclosures)