



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

January 22, 1998

Mr. John Steiner
Division Chief
City of Austin
P.O. Box 1088
Austin, Texas 78767-1088

OR98-0208

Dear Mr. Steiner:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 112399.

The City of Austin (the "city") received a request for all police reports concerning the requestor. You have released certain information, however, you assert that the requested information is excepted from disclosure pursuant to section 552.108. You state: "[t]he requested records have not resulted in a final conviction or a deferred adjudication." Section 552.108(a) of the Government Code provides, in part:

(a) Information held by law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

(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; or

(3) it is information that:

(A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation;

or

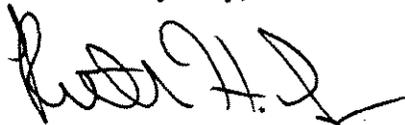
(B) reflects the mental impressions or legal reasoning of an attorney representing the state

Generally, a governmental body claiming an exception from disclosure under section 552.108(a)(1) must reasonably explain, if the information does not supply the explanation on its face, how and why the release of the requested information would interfere with law enforcement. *Ex parte Pruitt*, 551 S.W. 2d 706 (Tex. 1977). You have not stated that the requested information pertains to an ongoing criminal investigation or prosecution nor have you explained how its release would otherwise interfere in some way with the detection, investigation, or prosecution of crime.

A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in some final result other than a conviction or deferred adjudication. You state that there has not been a final conviction or a deferred adjudication. However, it is not clear to this office, nor have you explained, how or if the investigation has actually concluded. You do not assert that any other provision of section 552.108 is applicable to the records at issue. Since you have not shown the applicability of section 552.108 to the requested information, you must release this information to the requestor.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied on as a previous determination regarding any other records. If you have any questions regarding this ruling, please contact our office.

Yours very truly,



Ruth H. Soucy
Assistant Attorney General
Open Records Division

RHS/ch

Ref.: ID# 112399

Enclosures: Submitted documents

cc: Mr. James Hitzelberger
312 e. 43rd Street, #104
Austin, Texas 78751
(w/o enclosures)