



November 30, 1999

Lieutenant Arturo Valdez
Central Records Division
City of McAllen Police Department
1501 Pecan Boulevard
McAllen, Texas 78501

OR99-3430

Dear Lieutenant Valdez:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 130205.

The McAllen Police Department (the "department") received a request for incident reports 97-8301 and 95-61904. You assert that the information requested is excepted from required public disclosure by section 552.108 of the Government Code. We have considered the exception you claim and have reviewed the documents at issue.

Section 552.108 of the Government Code states that information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from required public disclosure "if release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). You inform us that the requested information pertains to ongoing cases. We note that case number 95-61904 involving a burglary took place on October 27, 1995. The second case, number 97-008301, involved a theft which occurred on March 5, 1997. Additionally, both offense reports indicate that the investigations of the two incidents have been suspended. We do not understand how the release of the reports would interfere with the investigation or prosecution of suspended cases, and your brief fails to shed any additional light on this issue. However, because the statute of limitations has not expired for the prosecution of either

offense,¹ and further investigation or prosecution is therefore possible, we believe that the release of the information “would interfere with the detection, investigation, or prosecution of crime.”² See *Houston Chronicle Publ’g 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) (court delineates law enforcement interests present in active cases).

However, section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publ’g 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). Thus, with the exception of the basic front page offense and arrest information,³ the department may withhold the requested information from disclosure based on section 552.108(a)(1). Although section 552.108(a)(1) authorizes you to withhold the remaining information from disclosure, you may choose to release all or part of the information at issue that is not otherwise confidential by law. See Gov’t Code § 552.007.

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 upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Carla Gay Dickson
Assistant Attorney General
Open Records Division

CGD/

Ref: ID# 130205

¹The statute of limitations for theft and burglary is five years. Code. Crim. Proc. art. 12.01(4)(A).

²As we have determined that the requested information may be withheld pursuant to Government Code section 552.108(a)(1), we need not address the additional exception you raise under section 552.108(b).

³The content of the information determines whether it must be released in compliance with *Houston Chronicle*, not its literal location on the first page of an offense report. Open Records Decision No. 127 (1976) contains a summary of the types of information deemed public by *Houston Chronicle*.

Encl. Submitted documents

cc: Ms. Rebecca Vela
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(w/o enclosures)