



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 22, 2009

Mr. Richard Bilbie  
Assistant City Attorney  
City of Harlingen  
P.O. Box 2207  
Harlingen, Texas 78551

OR2009-00885

Dear Mr. Bilbie:

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# 333833.

The Harlingen Police Department (the "department") received a request for information pertaining to a specified incident, including dash cam video footage, 911 audio recordings, mug shots of the suspect, photographs, and details of the crime. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions 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). Generally, a governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to a criminal case in which the suspect was indicted and tried by the Cameron County District Attorney's office, with trial beginning on November 3, 2008. You inform this office the defendant in the case at issue was convicted by a jury and sentenced on November 10, 2008. You argue, and have submitted a letter from the Chief First Assistant District Attorney arguing, the case is still pending because the defendant has not yet exhausted his available appellate remedies. We note, however, the department received the instant request for information on November 7, 2008, before the defendant was convicted. A requestor's right of access to information must be construed as of the time the request is made. Open Records Decision No. 530 (1989). Therefore, we find the prosecution

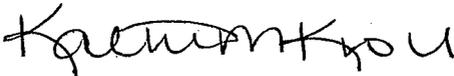
was pending on the date the department received the request, and we conclude release of the information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, section 552.108(a)(1) is applicable to the submitted information.

However, we note basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). The department must release basic, "front-page" information even if the information does not literally appear on the front page of an offense or arrest report. Such basic, "front-page" information refers to the information held to be public in *Houston Chronicle*, and includes, among other things, a detailed description of the offense. *See* 531 S.W.2d at 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 at (512) 475-2497.

Sincerely,



Katherine M. Kroll  
Assistant Attorney General  
Open Records Division

KMK/eeg

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure, except to note that section 552.103 of the Government Code generally does not except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991).

Ref: ID# 333833

Enc. Submitted documents

c: Requestor  
(w/o enclosures)