



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 27, 2009

Ms. Yvette Aguilar
Assistant City Attorney
City of Corpus Christi
P. O. Box 9277
Corpus Christi, Texas 78469-9277

OR2009-07126

Dear Ms. Aguilar:

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# 344360.

The Corpus Christi Police Department (the "department") received a request for information pertaining to two named individuals. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses information made confidential by section 371.206 of the Finance Code, which reads as follows:

Information obtained during an examination or inspection authorized by this subchapter is confidential and privileged except for use by the [consumer credit] commissioner or in a criminal investigation or prosecution.

Fin. Code § 371.206. Additionally, section 371.204 of the Finance Code requires a pawnbroker to allow a peace officer to inspect the pawnbroker's books, accounts, papers, correspondence, or other records that relate to the business of the pawnbroker at any reasonable time without judicial writ or other process. *See id.* § 371.204. You state that the

information you have marked was acquired from a department inspection of a pawn shop as authorized under section 371.204. Based upon your representation and our review, we conclude that the information you have marked is confidential pursuant to section 371.206 of the Finance Code and must therefore be withheld under section 552.101 of the Government Code.¹

Section 552.108(a)(2) 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 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)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert report number 06-064195 pertains to a closed investigation that did not result in conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is generally applicable to this report.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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); *see also* Open Records Decision No. 127 (1976)(summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of the basic front page offense and arrest information, you may withhold the report number 06-064195 pursuant to section 552.108(a)(2) of the Government Code.

In summary, the department must withhold the information in you have marked under section 552.101 of the Government Code in conjunction with section 371.206 of the Finance Code. With the exception of basic information, the department may withhold report number 06-064195 pursuant to section 552.108(a)(2) of the Government Code.

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

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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 at (512) 475-2497.

Sincerely,



Paige Savoie
Assistant Attorney General
Open Records Division

PS/eeg

Ref: ID# 344360

Enc. Submitted documents

cc: Requestor
(w/o enclosures)