



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2011

Mr. David A. Mendoza
Assistant District Attorney
Hays County District Attorney's Office
110 East Martin Luther King
San Marcos, Texas 78666

OR2011-10525

Dear Mr. Mendoza:

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# 424679.

The Hays County Sheriff's Office (the "sheriff") received a request for all reports pertaining to two specified addresses during a specified time period. You claim that 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)(1) 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). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information pertains to pending criminal investigations. We note, however, some of the records clearly reflect that they pertain to non-criminal incidents. You do not explain how this information pertains to any pending criminal case or prosecution, nor do you otherwise adequately explain why this information is excepted from disclosure under section 552.108. Accordingly, these records may not be withheld under section 552.108(a)(1) of the Government Code. We also note report numbers C08-20845, C08-30627, C08-31857, and C08-30624 pertain to incidents of harassment and telephone harassment that occurred in 2008 and report number C08-20053 pertains to a criminal trespass that occurred 2008. You state the sheriff received this request on May 9, 2011. The statute of limitations for the type of offenses described in these reports is two years. *See* Penal Code §§ 30.05, 42.07, Crim. Proc. Code art. 12.02 (indictment for misdemeanor may be presented within two years from the date of the commission of the offense, and not afterward). More than two years have elapsed since the events giving rise to the

investigations at issue, and you have not informed this office any criminal charges were filed within the limitations periods. Furthermore, you have not otherwise explained how release of these reports would interfere with the detection, investigation, or prosecution of crime. Thus, report numbers C08-20845, C08-30627, C08-31857, C08-30624, and C08-20053 may not be withheld under section 552.108(a)(1) of the Government Code. However, based upon your representations, we conclude that section 552.108(a)(1) is applicable to the remaining submitted information. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

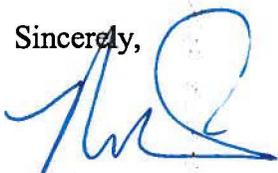
We note section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The sheriff must release basic offense and arrest information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, with the exception of basic information, the sheriff may withhold the reports we have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 424679

Enc. Submitted documents

cc: Requestor
(w/o enclosures)