



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2011

Mr. Jose Hernandez
Records Supervisor
Edinburg Police Department
1702 South Closner Boulevard
Edinburg, Texas 78539

OR2011-15131

Dear Mr. Hernandez:

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# 433444 (Edinburg Reference Nos. 25207 and 25338).

The Edinburg Police Department (the "department") received two requests for any reports involving the requestors. The second requestor also seeks calls made from a specified address. You claim the portions of the submitted reports you marked are 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 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). A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). The determination of whether the release of particular records would interfere with law enforcement is made on a case-by-case basis. Open Records Decision No. 409 at 2 (1984).

You state some of the information you marked under section 552.108 relates to a pending investigation by the department. Upon review, however, we note that the information you marked pertains to three separate instances of assault and public intoxication. You do not provide any arguments explaining which of the three submitted reports is pending with the department. Thus, you have failed to explain how release of the marked information, which pertains to various incidents, would interfere with the department's investigation of any particular case.

You also state some of the information you marked under section 552.108 relates to a prosecution that is pending with the Hidalgo County District Attorney's Office (the "district attorney") and a prosecution that is pending with the Edinburg Municipal Court (the "municipal court"). In this situation, this office requires a representation from the district attorney or the prosecuting entity at the municipal court explaining how release of the submitted information will interfere with its pending case. You have not, however, provided a representation from either the district attorney or the prosecuting entity at the municipal court, or otherwise indicated, that the district attorney or the prosecuting entity seeks to withhold the information because its release would interfere with its pending prosecution. Accordingly, we conclude the department has failed to demonstrate the applicability of section 552.108(a)(1) to the information at issue. *See* Gov't Code §552.301(e)(1)(A). Therefore, the department may not withhold the marked information under section 552.108 of the Government Code. As you raise no other exceptions to disclosure, the submitted information must be released to the requestors.

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,

A handwritten signature in black ink, appearing to read 'Sarah Casterline', with a stylized flourish at the end.

Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/agn

Ref: ID# 433444

Enc. Submitted documents

c: Requestor
(w/o enclosures)