



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 23, 2012

Ms. Leticia Mendiola
Crime Records Office
McAllen Police Department
P.O. Box 220
McAllen, Texas 78505-0220

OR2012-04337

Dear Ms. Mendiola:

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# 448675.

The McAllen Police Department (the "department") received a request for specified reports involving the requestor for 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 of the Government Code provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). A governmental body claiming section 552.108(a)(1) or section 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution, while section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with on-going law enforcement and prosecution efforts in general.

You state the submitted information relates to pending criminal investigations and consists of internal records or notations of a law enforcement agency or prosecutor that are maintained for internal use in matters relating to law enforcement or prosecution. However, we note case number 2008-092494 relates to an assault that occurred on September 10, 2008. We note the statute of limitations for felony assault is three years from the date of the offense, and the statute of limitations for misdemeanor assault is two years from the date of the offense. *See* Code Crim. Proc. arts. 12.01(7), 12.02. We further note case number 2008-104894 relates to an incident of alleged interference with child custody that occurred on October 13, 2008. The longest possible statute of limitations for this offense is three years from the date of the commission of the offense. *Id.* art. 12.01(7) (limitations on felony not otherwise listed in article 12.01 of Code of Criminal Procedure is three years from date of offense); Penal Code § 25.03(d) (providing that interference with child custody is a state jail felony offense). Thus, the statutes of limitations for the offenses in case numbers 2008-092494 and 2008-104894 have expired. You have not informed this office that any criminal charges were filed within the limitations periods nor have you explained how release of case numbers 2008-092494 and 2008-104894 would interfere with the detection, investigation, or prosecution of an offense for which the statute of limitations has not run. Thus, we find you have not demonstrated that release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Likewise, you have not explained how or why release of the submitted reports would interfere with law enforcement or crime prevention. *See id.* § 552.108(b)(1). Therefore, the department may not withhold this information under sections 552.108(a)(1) or 552.108(b)(1) of the Government Code. As no further exceptions are raised, the submitted 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,

A handwritten signature in black ink, appearing to read 'VB', with a long horizontal line extending to the right.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 448675

Enc. Submitted documents

c: Requestor
(w/o enclosures)