



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 25, 2012

Ms. Cary Grace
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2012-05863

Dear Ms. Grace:

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# 451535.

The Austin Police Department (the “department”) received a request for police reports, internal affairs reports, and any other records related to any incident since January 2006 in which a police officer committed a justifiable homicide or shot a mentally ill person.¹ You state you have released or will release some of the requested information to the requestor. You claim 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 representative sample of information.²

Initially, we note portions of the submitted information, which we have marked, are not responsive to the instant request. This ruling does not address the public availability of non-

¹You inform this office that the requestor has modified her request to exclude information confidential under section 143.089(g) of the Local Government Code. Gov’t Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information); *see also* Local Gov’t Code § 143.089(g).

²We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

responsive information, and the city is not required to release non-responsive information in response to this request.

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: (1) 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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state General Occurrence Nos. 2010-2740401, 2011-1502313, and 2011-1290071 relate to ongoing criminal investigations. Based upon this representation, we conclude section 552.108(a)(1) is applicable and the release of General Occurrence Nos. 2010-2740401, 2011-1502313, and 2011-1290071 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) (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).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state General Occurrence Nos. 2009-2280484, 2010-3060261, 2008-5059600, 2007-2391583, and 2006-11398 pertain to cases that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to General Occurrence Nos. 2009-2280484, 2010-3060261, 2008-5059600, 2007-2391583, and 2006-11398.

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*. *See* 531 S.W.2d at 186-88. We note basic information includes, among other things, an identification and description of the complainant, but does not include identifying information of a victim, unless the victim is also the complainant. *See* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the basic front page offense and arrest information, you may withhold General Occurrence Nos. 2010-2740401, 2011-1502313, and 2011-1290071 from disclosure based on section 552.108(a)(1) of the Government Code and General Occurrence Nos. 2009-2280484, 2010-3060261, 2008-5059600, 2007-2391583, and 2006-11398 from disclosure based on 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 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 cursive script, appearing to read "Kathryn R. Mattingly".

Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

Ref: ID# 451535

Enc. Submitted documents

c: Requestor
(w/o enclosures)