



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 25, 2012

Ms. Melissa A. Vidal
Assistant City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2012-05916

Dear Ms. Vidal:

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# 451572 (PIR# W001937-020612).

The City of Laredo (the "city") received a request for the reports and narratives related to three specified cases. You state the city will release basic information.¹ 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 information.

Section 552.108 of the Government Code provides, in part:

(a) information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

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

¹Basic 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).

(2) 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[.]

...

(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 [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2), (b)(2). Section 552.108(a)(1) protects law enforcement records pertaining to a pending criminal investigation or prosecution. *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). Subsections 552.108(a)(2) and 552.108(b)(2) except from disclosure information concerning an investigation that concluded in a result other than a conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information fits within the claimed exception. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state case number 12-000961 is an ongoing active investigation and release of the information at issue would interfere with law enforcement. Based on this representation and our review, we agree the city may withhold the information you have marked in case number 12-000961 under section 552.108(a)(1) of the Government Code.²

You claim subsections 552.108(a)(2) and 552.108(b)(2) of the Government Code for the information related to case number 10-031726. You state this is an inactive case. However, you do not inform us this case has concluded in a final result other than a conviction or deferred adjudication. Thus, we find the city has failed to demonstrate the applicability of either subsection 552.108(a)(2) or 552.108(b)(2) of the Government Code for the information in case number 10-031726, and it may not be withheld on either basis.

²As our ruling is dispositive, we do not address your argument under section 552.108(b)(1) of the Government Code for this information.

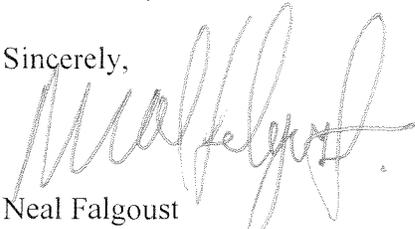
You also generally claim section 552.108 for case number 10-033826. However, you do not explain whether this case relates to an ongoing investigation or an investigation that has concluded in a result other than conviction or deferred adjudication. Accordingly, we conclude the city has failed to demonstrate the applicability of section 552.108 of the Government Code for the information in case number 10-033826, and it may not be withheld on that basis.

In summary, the city may withhold the information you have marked in case 12-000961 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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 451572

Enc. Submitted documents

c: Requestor
(w/o enclosures)