



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 21, 2012

Ms. Tiffany Bull
Assistant City Attorney
Legal Division
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

Ms. Molly Shortall
Assistant City Attorney
City of Arlington
P.O. Box 90231
Arlington, Texas 76004-3231

OR2012-09564

Dear Ms. Bull and Ms. Shortall:

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# 457201 (No. W007349-040212).

The City of Arlington (the "city") received a request for law enforcement records from a specified time period involving claims of self-defense or incidents considered to be justifiable homicides. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the information you submitted.

¹As you also initially raised section 552.101 of the Government Code, but have submitted no arguments in support of the applicability of that exception, this decision does not address section 552.101. See Gov't Code § 552.301(e)(1)(A) (governmental body must provide written comments in support of each exception it claims).

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]

(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:

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

(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)(1)-(2). As a general rule, these provisions of section 552.108 are applicable to four different types of information. Section 552.108(a)(1) is applicable to information, the release of which would interfere with 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). Section 552.108(b)(1) protects internal records of a law enforcement agency, the release of which would interfere with law enforcement and crime prevention. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (Gov't Code § 552.108(b)(1) protects information that, if released, would permit private citizens to anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). Section 552.108(a)(2) is applicable to information related to a concluded criminal investigation or prosecution that did not result in a conviction or a deferred adjudication. Section 552.108(b)(2) protects internal records of a law enforcement agency or prosecutor related to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See Gov't Code § 552.301(e)(1)(A); Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

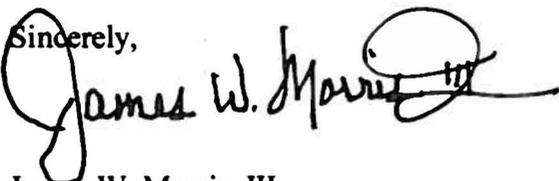
Although you quote section 552.108 (b)(1) with regard to the information in Exhibit B, you indicate release of the information at issue would interfere with pending criminal investigations. Thus, we understand you to claim section 552.108(a)(1) for Exhibit B. Based on your representations and our review, we conclude Exhibit B falls within the scope of section 552.108(a)(1). Likewise, although you quote portions of both section 552.108(a)(2) and section 552.108(b)(2) for the information in Exhibit C, you also cite to section 552.108(a)(2) and indicate the information at issue is related to a concluded criminal investigation that did not result in a conviction or a deferred adjudication. Based on your representations and our review, we conclude Exhibit C falls within the scope of section 552.108(a)(2).

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 offense and arrest information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). The city must release basic information, including detailed descriptions of the offenses, even if the information does not literally appear on the front page of an offense or arrest report. The city may withhold the remaining information in Exhibit B under section 552.108(a)(1) of the Government Code and the remaining information in Exhibit C under 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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/bs

Ref: ID# 457201

Enc: Submitted documents

c: Requestor
(w/o enclosures)