



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2012

Mr. Nathan L. Brown
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, Ninth Floor
El Paso, Texas 79901

OR2012-12615

Dear Mr. Brown:

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# 461556.

The El Paso Police Department (the "department") received a request for five specified reports. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.117 of the Government Code. We have considered the exceptions 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]

(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[.]

Gov't Code § 552.108(a)(1), (2). Section 552.108(a)(1) is applicable to information 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). Section 552.108(a)(2) protects law enforcement records pertaining to a criminal investigation or prosecution that concluded in a final result other than a conviction or a deferred adjudication. 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.* § 552.301(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 indicate reports 11-315164, 11-350052, 11-342167, and 12-113212 pertain to pending investigations and prosecutions. Thus, we find the release of this information would interfere with the detection, investigation, and prosecution of crime, and section 552.108(a)(1) is generally applicable to that information. You further state report 12-012248 relates to an investigation in which no offense was established and that has concluded without a conviction or deferred adjudication. Accordingly, we find section 552.108(a)(2) is applicable to that report.

We note, however, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. *See Open Records Decision No. 127 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold reports 11-315164, 11-350052, 11-342167, and 12-113212 under section 552.108(a)(1) of the Government Code and report 12-012248 under section 552.108(a)(2) of the Government Code.¹

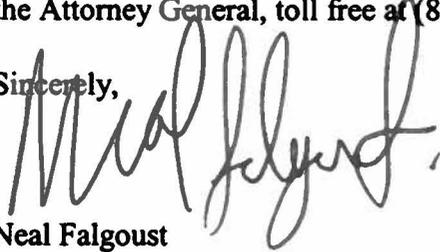
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As our ruling is dispositive, we do not address your assertion of section 552.117 of the Government Code. We note you have redacted the social security number of an arrested person, which is basic information. However, section 552.147 of the Government Code permits a governmental body to redact the social security number of a living person without the necessity of requesting a decision from this office. *See Gov't Code § 552.147(b)*.

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 "Neal Falgoust". The signature is fluid and cursive, with a large initial "N" and "F".

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 461556

Enc. Submitted documents

c: Requestor
(w/o enclosures)