



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 30, 2012

Ms. Cecilia Gamez
Lead C.S.S.
Crime Records Office
City of McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2012-17306

Dear Ms. Gamez:

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# 473889.

The McAllen Police Department (the "department") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 of the Government Code encompasses section 58.106 of the Family Code. You claim the submitted report is made confidential by section 58.106. However, subchapter B of chapter 58 of the Family Code, which contains section 58.106, ~~pertains to the administration of the juvenile justice information system by the Texas Department of Public Safety. See id. § 58.102.~~ Section 58.104 of the Family Code provides that the juvenile justice information system shall consist of information relating to certain delinquent conduct committed by a juvenile offender that would constitute a criminal offense. *See id.* § 58.104(a). In this instance, none of the information you seek to withhold consists of information pertaining to criminal acts committed by juvenile offenders that is maintained in the juvenile justice information system. *Id.* §§ 58.001(a), .007(c), .104(a). Thus, the submitted report is not confidential under section 58.106 and may not be withheld under section 552.101 of the Government Code on that basis.

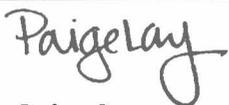
Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted report relates to a pending criminal prosecution. Based on your representations and our review, we find that release of the information at issue would interfere with the detection, investigation, or prosecution of crime. Therefore, section 552.108(a)(1) is applicable to the submitted information. *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).

However, section 552.108 does not except 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 information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/tch

Ref: ID# 473889

Enc. Submitted documents

cc: Requestor
(w/o enclosures)