



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 6, 2012

Ms. Evelyn W. Njuguna  
Staff Attorney  
City of Houston Police Department  
1200 Travis  
Houston, Texas 77002-6000

OR2012-19647

Dear Ms. Njuguna:

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# 477551 (OR No. 12-6457).

The Houston Police Department (the "department") received a request for information related to a named officer during a specified time period. You state some responsive information will be made available 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 information.<sup>1</sup>

You claim Exhibits 2, 3, and 4 are excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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). Generally, a governmental body claiming section 552.108(a)(1) 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).

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<sup>1</sup>We assume that 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 that those records contain substantially different types of information than that submitted to this office.

You state Exhibit 2 relates to a pending criminal prosecution and Exhibit 3 pertains to an active criminal investigation. You also state Exhibit 4 relates to an inactive criminal investigation that is pending additional leads. You further explain the statute of limitations on the offense at issue has not run and indicate the investigation may be reactivated once additional leads are developed. Based upon your representation and our review, we find that the release of Exhibits 2, 3, and 4 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).

Next, you claim Exhibits 5 and 6 are excepted from disclosure under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You explain Exhibits 5 and 6 pertain to criminal investigations that did not result in a conviction or deferred adjudication. Based on your representations and our review, we find the department has demonstrated Exhibits 5 and 6 relate to criminal investigations that have concluded in a final result other than a conviction or deferred adjudication.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold Exhibits 2, 3, and 4 under section 552.108(a)(1) of the Government Code and Exhibits 5 and 6 under section 552.108(a)(2) of the Government Code.<sup>2</sup>

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

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<sup>2</sup>Although basic information includes an arrestee's social security number, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 477551

Enc. Submitted documents

c: Requestor  
(w/o enclosures)