



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2014

Mr. Mark G. Daniel
Counsel for the City of Watauga
Evans, Daniel, Moore, Evans & Lazarus
115 West Second Street, Suite 202
Fort Worth, Texas 76102

OR2014-07467

Dear Mr. Daniel:

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# 521533 (PIR 14-61).

The Watauga Police Department (the "department"), which you represent, received a request for a specified offense report.¹ You state the department will make available to the requestor some responsive information. You claim the remaining requested 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.

Subsection 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). Generally, 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.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

¹You state the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request).

You indicate, and the submitted information reflects, five separate offenses arose from a single incident. You state offense numbers 2 and 4 pertain to open criminal cases in which prosecution is pending in municipal court. You further state release of the information at issue would interfere with the pending prosecution. Based on your representations, we find the department has demonstrated the release of information pertaining to offense numbers 2 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).

Subsection 552.108(a)(2) 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 . . . 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)(2). Subsection 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A).

You state offense numbers 1, 3, and 5 pertain to closed investigations in which no charges were filed and that did not result in conviction or deferred adjudication. Based on your representations, we find the department has demonstrated the information pertaining to offense numbers 1, 3, and 5 relates to concluded criminal investigations that did not result in conviction or deferred adjudication.

We note, 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 186-8; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold information pertaining to offense numbers 2 and 4 under subsection 552.108(a)(1) of the Government Code and the information pertaining to offense numbers 1, 3, and 5 under subsection 552.108(a)(2) of the Government Code.

In summary, with the exception of basic information, the department may withhold information pertaining to offense numbers 2 and 4 under subsection 552.108(a)(1) of the Government Code and the information pertaining to offense numbers 1, 3, and 5 under subsection 552.108(a)(2) of the Government Code. As our ruling is dispositive, we do not address your remaining arguments.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to 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# 521533

Enc. Submitted documents

c: Requestor
(w/o enclosures)