



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 7, 2020

Ms. Cecilia Gamez
Crime Records Bureau
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2020-12944

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# 827980 (ORR# 57947).

The McAllen Police Department (the "department") received a request for records related to specified charges during a specified time period. The department states it is releasing some of the requested information. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code 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 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). The department states the submitted information relates to concluded criminal investigations that were closed by the investigating officer. We note the information at issue relates to alleged assault offenses that occurred in 2016 and 2017. The statute of limitations for the assault offenses is two years from the date of the commission of each offense. *See* Penal Code § 22.01 (assault); *see also* Crim. Proc. Code art. 12.02(a) (indictment or information for Class A misdemeanor must be presented within two years). Thus, we understand the information relates to closed criminal investigations that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which is being released to this requestor, the department may withhold the submitted information 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/mo

Ref: ID# 827980

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ We note the requestor has a right of access to some of the information at issue pursuant to section 261.201(k) of the Family Code. *See* Fam. Code § 261.201(k) (child victim of abuse or neglect who is adult has right of access to information otherwise confidential under section 261.201(a) of the Family Code), (l)(2) (providing any information excepted from required disclosure under the Act or other law must be withheld from disclosure). If the department receives another request for this information from a different requestor, the department must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).