



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 12, 2009

Mr. Eloy Padilla
Assistant City Attorney
City of Del Rio
109 West Broadway Street
Del Rio, Texas 78840

OR2009-01895

Dear Mr. Padilla:

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# 334929 (request # 08-272).

The City of Del Rio (the "city") received a request for records of how many times the police were called to a particular location from October 31, 2008 to the present. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, as you acknowledge, Exhibit B includes some information that is not related to the calls to the specified address. Therefore, the information in Exhibit B unrelated to the specified address is not responsive to this request. This ruling does not address the public availability of any information not responsive to the request, and the city is not required to release this information in response to the request.¹

You state the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108 provides in pertinent part as follows:

¹Because all of the Texas motor vehicle information in Exhibit B is contained in the non-responsive information, we do not address your argument under section 552.130 of the Government Code.

(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:

(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication;

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2), (b)(2). Subsections 552.108(a)(2) and (b)(2) protect information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why the exception it claims is applicable to the information that the governmental body seeks to withhold. *See id.* §§ 552.108(a)(1), 301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You raise subsections 552.108(a)(2) and 552.108(b)(2) for the information at issue. You do not provide any arguments explaining how the information at issue pertains to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. Thus, we find you have failed to sufficiently demonstrate the applicability of subsections 552.108(a)(2) and 552.108(b)(2) to the information at issue, and we therefore conclude the city may not withhold this information under subsection 552.108(a)(2) or 552.108(b)(2). As you raise no other exceptions to disclosure, the requested information must be released.

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 at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read 'Yen-Ha Le', written in a cursive style.

Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/eeg

Ref: ID# 334929

Enc. Submitted documents

c: Requestor
(w/o enclosures)