



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 19, 2009

Mr. George E. Hyde
Mr. Miguelangel Matos
Denton, Navarro, Rocha & Bernal
2517 North Main Avenue
San Antonio, Texas 78212

OR2009-06803

Dear Mr. Hyde and Mr. Matos:

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# 343459.

The City of Windcrest (the "city"), which you represent, received a request for specified photographs and videos with audio from case number 0901652, as well as certain K-9 records. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.117, 552.119, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor only seeks videos pertaining to the specified incident and during the specified time periods, along with certain K-9 records. However, the city has submitted several videos that do not pertain to the specified incident and time periods. We find these videos are not responsive to the instant request for information. You have also submitted the incident report pertaining to the specified incident. We note this information is not responsive to any portion of the instant request. The city need not release non-responsive information in response to this request for information, and this ruling will not address that information.

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). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would

¹We note that although you initially raise section 552.117 of the Government Code, you have not submitted any arguments to support this exception. Therefore, we assume you have withdrawn your claim that this section applies to the submitted information.

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). You state the information at issue relates to a pending criminal investigation and prosecution. Based on this representation and our review of the submitted documents, we conclude that the release of this information 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), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the city may withhold the responsive 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 at (512) 475-2497.

Sincerely,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/jb

Ref: ID# 343459

Enc. Submitted documents

c: Requestor
(w/o enclosures)