



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 4, 2009

Mr. Joe Torres, III
Attorney for City of Alice
216 North Texas Boulevard, Suite 2
Alice, Texas 78332

OR2009-15713

Dear Mr. Torres:

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# 360823.

The Alice Police Department (the "department"), which you represent, received a request for information pertaining to a specified police report. You claim the 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.

You claim the submitted police report and attached photographs are excepted from disclosure under section 552.108, which provides in pertinent part:

(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:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

(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[.]

Gov't Code § 552.108(a)(1)-(2). Section 552.108(a)(1) typically protects information that pertains to a pending criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication. 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). A governmental body that claims 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* Gov't Code §§ 552.108(a)(2), .301(e)(1)(A).

Although you generally assert the submitted information is excepted under section 552.108, you have not specified the subsection of section 552.108 that applies to the information, nor have you submitted any specific arguments explaining how that subsection applies to the information. *See id.* § 552.301(e)(1)(A) (stating it is governmental body's burden to establish applicability of claimed exception or otherwise explain why requested information should not be released). Consequently, you have failed to establish the applicability of section 552.108 of the Government Code to the submitted information, and the department may not withhold the information on that basis. As you have claimed no other exceptions to disclosure for the submitted information, it 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, toll free, at (888) 672-6787.

Sincerely,



Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 360823

Enc. Submitted documents

cc: Requestor
(w/o enclosures)