



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 8, 2013

Mr. Charles Galindo Jr.
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2013-04003

Dear Mr. Galindo:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 480676 (PIR Nos. 12-35042 and 12-35086).

The Office of the Attorney General (the "OAG") received requests for an attachment referenced in the request for an opinion submitted by the Kerr County Attorney's Office and assigned as RQ-1102-GA. The OAG released most of the information and asserts the remainder is excepted from disclosure under section 552.108 of the Government Code. We have considered the OAG's claimed exception and have reviewed the submitted information.

Section 552.108(a)(2) excepts from disclosure information held by a law enforcement agency or prosecutor concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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. By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. This office has concluded, however, that section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See* Open Records Decision Nos. 474 (1987), 372 (1983). Where a non-law enforcement agency is in the custody of information relating to a concluded criminal case of a law enforcement agency, the custodian

of the records may withhold the information if it provides this office with a demonstration that the information relates to the criminal case that has reached a conclusion other than a conviction or deferred adjudication and a representation from the law enforcement entity that it wishes to withhold the information.

The OAG received the information from the Kerrville Police Department (the "department") and thus informed it of the request. The department asks the OAG to withhold the information from disclosure because the information relates to concluded criminal investigations that did not result in conviction or deferred adjudication. Based on this representation, we agree the OAG may withhold Exhibit B pursuant to section 552.108(a)(2) 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, toll free, at (888) 672-6787.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 480676

Enc: Submitted documents

c: 2 Requestors
(w/o enclosures)