



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2010

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-08354

Dear Mr. Griffith:

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# 387491.

The Town of Flower Mound (the "town"), which you represent, received a request for information relating to the requestor. You claim that 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 information you submitted. We also have considered the comments we received from the requestor. *See* Gov't Code § 552.304 (any person may submit written comments stating why information at issue in request for attorney general decision should or should not be released).

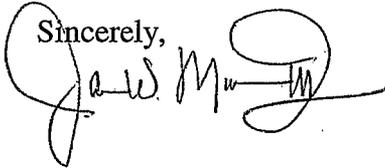
Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue is related to a pending criminal case. We note that the submitted information pertains to an alleged violation of section 28.03(b)(2) of the Penal Code (criminal mischief). A violation of section 28.03(b)(2) is a misdemeanor offense. *See* Penal Code § 28.03(b)(2). Under article 12.02 of the Code of Criminal Procedure, an indictment, information, or complaint in a misdemeanor case of criminal mischief "may be presented within two years from the date of the commission of the offense, and not afterward." Crim.

Proc. Code art. 12.02(a). According to the submitted information, the criminal mischief allegedly occurred on August 6, 1999. You state that the town received the instant request for information on May 3, 2010. You do not indicate that any prosecution of the alleged criminal mischief was pending on the date of the town's receipt of the request. Thus, based on your representations and our review of the information at issue, we find that prosecution of the alleged criminal mischief is barred by the statute of limitations. Accordingly, we find that you have not demonstrated that release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1); *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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). We therefore conclude that the town may not withhold any of the submitted information under section 552.108 of the Government Code. As the town claims no other exception to disclosure, the submitted 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large initial "J" and "M".

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 387491

Enc: Submitted documents

c: Requestor
(w/o enclosures)