



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 16, 2010

Ms. Heather Weidenbach  
City Secretary  
City of Windcrest  
8601 Midcrown Drive  
Windcrest, Texas 78239

OR2010-17363

Dear Ms. Weidenbach:

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# 400253.

The City of Windcrest (the "city") received a request for information pertaining to any deaths and causes of death at a specified location; any fire or water damage and the cause thereof; and any violent or criminal citations given at the specified address and the business in operation at the time of the citation. 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 submitted information.

Section 552.108 of the Government Code 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:

...

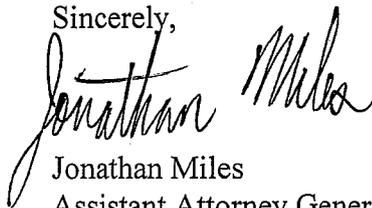
(2) it is information that the deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2). You state the submitted information is excepted under section 552.108(a)(2) because it pertains to a criminal investigation that did not result in a conviction or a deferred adjudication. However, you also state the submitted information pertains to an open and active criminal investigation, and that the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Because you have provided this office with contradictory representations, we find you have failed to demonstrate the applicability of section 552.108(a)(2) to the submitted information. See Gov't Code § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the city may not withhold the submitted information under section 552.108(a)(2) of the Government Code. As you raise no further exceptions, 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](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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/eeg

Ref: ID# 400253

Enc. Submitted documents

c: Requestor  
(w/o enclosures)