



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 15, 2011

Mr. William P. Chesser
City Attorney
City of Brownwood
P.O. Box 1389
Brownwood, Texas 76804

OR2011-02305

Dear Mr. Chesser:

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# 409098.

The City of Brownwood (the "city") received a request for police reports involving the requestor and two named individuals. You claim the submitted information is excepted from disclosure under section 552.108(a)(2) 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:

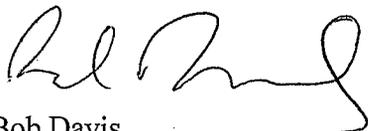
- (1) release of the information would interfere with the detection, investigation or prosecution of crime;
- (2) it is information that deals with the detection, investigation or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a). We note section 552.108(a)(1) and section 552.108(a)(2) typically encompass two mutually exclusive types of information. Section 552.108(a)(1) generally protects information that pertains to a specific 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 the detection, investigation, or prosecution of crime. *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 that 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). In this case, you cite to section 552.108(a)(2) but provide an affidavit from the city's police department stating the case at issue in report number 10-002477 has been set for grand jury consideration and is therefore pending prosecution. Consequently, you have provided this office with conflicting representations with respect to the current status of this case, and we find you have not demonstrated the applicability of section 552.108(a)(2) to report number 10-002477. *See Gov't Code* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies). Therefore, this information may not be withheld under section 552.108(a)(2) of the Government Code. As you raise no other exceptions to disclosure, report number 10-002477 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tf

Ref: ID# 409098

Enc. Submitted documents

c: Requestor
(w/o enclosures)