



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2012

Ms. Janet I. Monteros
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2012-19412

Dear Ms. Monteros:

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# 473184 (CA-OP-12-453).

The El Paso County Sheriff's Office (the "sheriff's office") received a request for seventeen categories of information pertaining to a specified incident. You inform us the sheriff's office has released some of the requested information. You claim the submitted 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.

Initially, we note you have submitted only one record as responsive to the request for information. To the extent the sheriff's office maintains additional information responsive to the request for information that existed on the date the request was received, we assume the sheriff's office has released it. If the sheriff's office has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108 of the Government Code provides, in pertinent part, the following:

(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[.]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming subsections 552.108(a)(2) and 552.108(b)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You inform us submitted information pertains to a report that “does not appear to have been presented to the El Paso District Attorney’s office for prosecution.” You also inform us the sheriff’s office’s investigation of this report “has *not resulted* in a conviction or deferred adjudication” (emphasis in original). We note subsections 552.108(a)(2) and 552.108(b)(2) are applicable only if the information at issue is related to a concluded criminal case “that did not result in conviction or deferred adjudication.” *Id.* § 552.108(a)(2), (b)(2). Thus, having considered your representations, we find you have failed to demonstrate the applicability of subsection 552.108(a)(2) or subsection 552.108(b)(2) to the submitted information. Accordingly, the sheriff’s office may not withhold this information under subsection 552.108(a)(2) or subsection 552.108(b)(2) of the Government Code. As no further exceptions to disclosure are raised for the submitted information, the sheriff’s office must release it.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/bhf

Ref: ID# 473184

Enc. Submitted documents

c: Requestor
(w/o enclosures)