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ATTORNEY GENERAL OF TEXAS

April 1, 2015

Mr. James K. Crain, III
Counsel for the City of Cuero
Law Offices of Crain & Sheppard
P.O. Box 427
Cuero, Texas 77954

OR2015-06169

Dear Mr. Crain:

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# 558483.

The Cuero Police Department (the "department"), which you represent, received a request for five categories of information pertaining to any incidents during a specified time period in which a department police officer discharged a firearm, resulting in the injury or death of a human being. You claim the submitted information is excepted from disclosure under sections 552.108, 552.1085, 552.117, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Section 552.108(a)(2) of the Government Code excepts from disclosure information 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Thus, where a governmental body has custody of information that would otherwise qualify for

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

exception under section 552.108 as 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 a deferred adjudication and a representation from the law enforcement agency that it wishes to have the information withheld. You state, and provide representations from the DeWitt County District Attorney's Office (the "district attorney's office") and the department's chief of police stating, the submitted information pertains to a closed criminal investigation conducted by the Texas Rangers and the district attorney's office that did not result in a conviction or deferred adjudication. Based on these representations and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

However, we note basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold the submitted information on behalf of the district attorney's office under section 552.108(a)(2) of the Government Code.²

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/dls

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 558483

Enc. Submitted documents

c: Requestor
(w/o enclosures)