OFFICE OF THE ATTORNEY GENERAL · STATE OF TEXAS
JOHN CORNYN

June 3, 1999

Ms. Carla Robinson
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR99-1530

Dear Ms. Robinson:

You have asked 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# 125040.

You assert that the requested information is excepted from disclosure based on section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Based on the information you provided, we understand you to assert that the requested information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable.

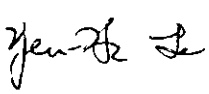
However section 552.108 is inapplicable to basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). We believe such basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston,* 531 S.W.2d 177 (Tex. Civ. App. --Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of the basic front page offense and arrest information, you may withhold the requested information from disclosure based on section 552.108(a)(2).

The requestor argues that we should balance the public's right to know with the governmental body's law enforcement interest in deciding whether information is excepted from public disclosure by section 552.108. The legislature considered the public's right to

know when it enacted the Public Information Act. Information is presumed to be public and the public is entitled to such public information unless a governmental body shows that the information is within one of the act's exceptions. Gov't Code §§ 552.001, .301. Here, you have shown that section 552.108(a)(2) is applicable, and, in fact, the requestor acknowledges that section 552.108(a)(2) applies to except the information from public disclosure. By its language, section 552.108 does not require consideration of the public interest in the information. Such a consideration was contemplated by the legislature when it enacted section 552.108 to allow a governmental body to withhold information relating to law enforcement that concluded in a result other than a conviction or deferred adjudication. Thus, because the city has met its burden under section 552.108(a)(2), you may withhold the information under section 552.108(a)(2). We note that you have the discretion to release all or part of the requested information that is not otherwise confidential by law. Gov't Code § 552.007.

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/ch

Ref: ID# 125040

Encl. Submitted documents

cc: Mr. Benito Flores-Meath
901 Val Verde Drive
College Station, Texas 77848-5125
(w/o enclosures)