



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 13, 2009

Mr. Bill Delmore
Assistant District Attorney
9th Judicial District
207 West Phillips, 2nd Floor
Conroe, Texas 77301

OR2009-14381

Dear Mr. Delmore:

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# 358250.

The Montgomery County District Attorney (the "district attorney") received a request for "all documents produced or notes taken by any field investigator and/or assistant district attorney concerning any investigation of the Magnolia Volunteer Fire Department and/or the Montgomery County Emergency Services District No. 10 for the year 2009." You claim that 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 that the submitted documents include copies of Attorney General Opinions and Open Records letter rulings, which are readily available to the public on the Attorney General's web site. Thus, this information may not be withheld from public disclosure under section 552.108 of the Government Code.

You assert the remaining information at issue is subject to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if 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)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining submitted information pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on your representation, we agree that the district attorney may withhold the remaining submitted information under section 552.108(a)(2) of the Government Code.

In summary, the district attorney must release the records that are readily available to the public on the Attorney General’s web site. The remaining submitted information may be withheld under section 552.108(a)(2) of the Government Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 358250

Enc. Submitted documents

c: Requestor
(w/o enclosures)