



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

January 29, 2010

Ms. Cara Leahy White  
Taylor, Olson, Adkins, Sralla, Elam, L.L.P.  
6000 Western Place, Suite 200  
Fort Worth, Texas 76107-4654

OR2010-01415

Dear Ms. White:

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# 368619.

The City of Ovilla (the "city"), which you represent, received a request for all records for a shooting involving a named individual. You state that you will make a portion of the requested information available to the requestor. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.132 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (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)(2). A governmental body claiming 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 conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a concluded investigation conducted by the city's police department that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to the submitted information.

As you acknowledge, section 552.108 does not except from required public disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Thus, the city must release the types of basic information listed in *Houston Chronicle Publishing*

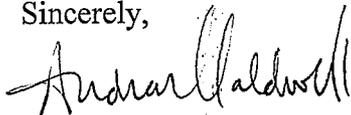
*Company v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, with the exception of basic information which you state will be released, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

You also seek to withhold the identifying information of the victim under section 552.132 of the Government Code. The identity of a complainant is considered basic information in an incident report. See Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). However, the submitted information reflects that the victim and complainant are not the same individual. Accordingly, in this instance, our ruling under section 552.108(a)(2) is dispositive of the information identifying the victim, and we need not address your claim under section 552.132. In summary, with the exception of basic information which you state will be released, the city may withhold the submitted information 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](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,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 368619

Enc. Submitted documents

c: Requestor  
(w/o enclosures)