



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

This ruling has been modified by court action  
The ruling and judgment can be viewed in PDF  
format below.



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 5, 2010

Ms. Evelyn Njuguna  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

**The ruling you have requested has been amended as a result of litigation and has been attached to this document.**

OR2010-01883

Dear Ms. Njuguna:

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# 369555.

The City of Houston Emergency Center (the "center") received a request for 9-1-1 tapes, dispatch notes, and photos and dash camera information pertaining to a specified incident. You state the center does not maintain the requested photos and dash camera video.<sup>1</sup> 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.

Section 552.108(a)(2) 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 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 the Houston

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<sup>1</sup> We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

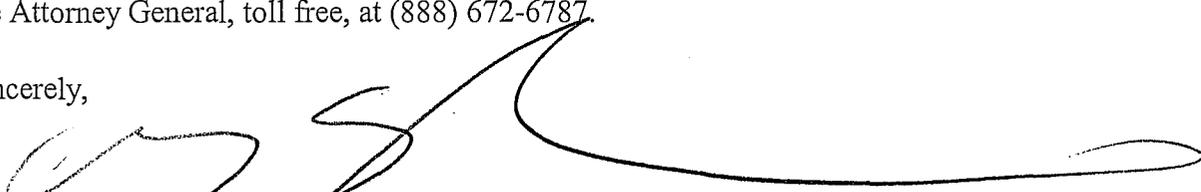
Police Department seeks to withhold the submitted information because it pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Accordingly, we find section 552.108(a)(2) is applicable to the submitted information. See Open Records Decision Nos. 372 (1983) (statutory predecessor to section 552.108 may be invoked by any proper custodian of law enforcement information).

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle Publishing Company v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e., 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 center 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,

A handwritten signature in black ink, appearing to read "Chris Schulz", with a long horizontal flourish extending to the right.

Chris Schulz  
Assistant Attorney General  
Open Records Division

CS/cc

Ref: ID# 369555

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

Cause No. D-1-GN-10-004452

TITUS COUNTY, TEXAS, a political  
Subdivision of the State of Texas,  
Justice of the Peace McNutt,  
Justice of the Peace Dyke, County  
Clerk Teresa Price and County  
Auditor Carl Johnson

Plaintiff,

v.

GREG ABBOTT, Attorney  
General of the State of Texas,

Defendant.

IN THE DISTRICT COURT

261<sup>st</sup> JUDICIAL DISTRICT

TRAVIS COUNTY, TEXAS

**PLAINTIFFS' FIRST AMENDED NOTICE OF NON-SUIT**

Plaintiffs Titus County, Texas, Justice of the Peace McNutt, Justice of the Peace Dyke, County Clerk Teresa Price, and County Auditor Carl Johnson give written notice of its nonsuit.

A. Introduction

1. Plaintiffs are Titus County, Texas, Justice of the Peace McNutt, Justice of the Peace Dyke, County Clerk Teresa Price, and County Auditor Carl Johnson; defendant is Greg Abbott, Attorney General of the State of Texas.

2. Plaintiffs sued defendant under the provisions of the Texas Public Information Act, Tex. Gov't Code, §§ 552.001, et seq. (the "PIA") and the Texas Declaratory Judgment Act, Tex. Civ. Prac. & Rem. Code §§ 37.001 et seq., seeking declaratory relief, as well as other remedies provided by law and equity.

3. After the filing of the lawsuit, the requestor of the information informed counsel for Titus County that he was withdrawing his request. Attached hereto as Exhibits A and B are letters from the Requestor withdrawing his requests under the PIA.

B. Notice of Nonsuit

3. Plaintiffs ask the court to sign an order of nonsuit on all its claims against defendant.

Respectfully submitted,



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(512) 480-0902 *facsimile*

**CERTIFICATE OF SERVICE**

I hereby certify that on the 17<sup>th</sup> day of March, 2011, the foregoing was forwarded via certified mail, return receipt requested, to the following:

Honorable Greg Abbott  
Attorney General, State of Texas  
P.O. Box 12548  
Austin, Texas 78711-2548

*cmrrr: 7010 1870 0002 2356 1436*



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Vanessa A. Gonzalez

Unofficial copy - Travis Co. District Clerk Amalia Rodriguez-Mendoza