



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 8, 2010

Mr. Jay A. Cantrell  
1101 Scott Avenue, Suite 6  
Wichita Falls, Texas 76301-4660

OR2010-01887

Dear Mr. Cantrell:

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# 369552.

The City of Burkburnett (the "city"), which you represent, received a request for a copy of a specified internal affairs investigation report and for the final action taken by the city regarding the incident in the report. 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.

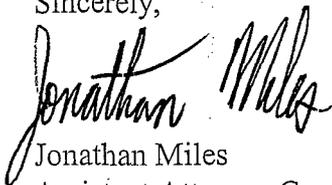
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that "as of the date of this letter there *has* been no indictment and, accordingly, there has been no conviction or deferred adjudication in connection with the individual which was the subject of this investigation" (emphasis added). We note that section 552.108(a)(2) is applicable only if the information at issue is related to a *concluded* criminal investigation "that did not result in conviction or deferred adjudication." Gov't Code § 552.108(a)(2) (emphasis added). Thus, having considered your representations, we find that you have not demonstrated that the submitted information relates to a concluded criminal investigation. Accordingly, the city may not withhold any portion of the submitted

information under section 552.108 of the Government Code. As you raise no further exceptions against disclosure, the submitted information must be released.

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 that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/cc

Ref: ID# 369522

Enc. Submitted documents

c: Requestor  
(w/o enclosures)