ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 25, 2010

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

OR2010-07570

Dear Ms. Chang:

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# 380492.

The Houston Emergency Center (the "center") received a request for the 9-1-1 tapes and transcripts pertaining to a specified incident. 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 crim e . . . 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 Police Department (the "department") seeks to withhold the submitted information because it pertains to a criminal investigation that did not result in conviction or deferred adjudication. You further state that the department advises that the investigation was

concluded in a determination by the Harris County District Attorney's Office to decline accepting charges in this matter. 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). Thus, 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, 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,

Tamara H Holland

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/jb

Ref: ID# 380492

Enc. Submitted documents

c: Requestor
(w/o enclosures)