



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 14, 2010

Ms. Yushan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001

OR2010-15655

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# 398173.

The Houston Police Department (the "department") received a request for 1) incident report #112610610-E, 2) a listing of any and all extra employment approved for a specified officer, and 3) additional information pertaining to the previously specified officer and another specified officer (their daily activity reports for a specified date; their internal affairs card; their Computer-Assisted Dispatch (CAD) logs for a specified date within a specified time; any personal audio recordings or dash board camera recordings with regard to the specified incident; any letter, e-mail, memo or correspondence written to any supervisor regarding this specific incident and any reply from the supervisor; any letter, report, or notice filed with any other agency (such as the Texas Department of Public Safety) regarding this specific incident; and a complete copy of any significant event report filed by the officers for the specified incident). You state the department will release a portion of the requested information to the requestor. You further state the department does not have any personal recordings, internal memoranda, letters to the Department of Public Safety, or information pertaining to significant events. You claim 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 pages 17, 20, 25-29, and 32-36 in exhibit 3 are not responsive to the instant request because they do not pertain to either of the specified officers in the request. Furthermore, pages 41-176 in exhibit 3 are not responsive because they are not within the

specified time set out in the request. The department need not release nonresponsive information in response to this request, and this ruling will not address that information.

Section 552.108(a)(2) 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 the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *Id.* You assert the submitted information pertains to a case that concluded in a result other than conviction or deferred adjudication because the Harris County District Attorney's Office declined to file any charges. Therefore, we agree section 552.108(a)(2) is applicable.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. 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).¹ Thus, with the exception of the basic front page offense and arrest information, the department may withhold the submitted information from disclosure based on section 552.108(a)(2).

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/eb

¹See also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

Ref: ID# 398173

Enc. Submitted documents

c: Requestor
(w/o enclosures)