



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

November 1, 2010

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

OR2010-16531

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# 398791 (COH # 17612).

The Houston Police Department (the "department") received a request for records pertaining to a shooting incident at the Nordling Chateau Apartments and a request for all records pertaining to an automobile accident involving a named person. The department did not submit records pertaining to the automobile accident. Thus, we presume, to the extent such records existed on the date of the request, they have been released. If not, then the department must do so at this time. *See* Gov't Code §§ 552.006, .221, .301, .302; Open Records Decision No. 664 (2000). You claim the records pertaining to the shooting incident are 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, the "law enforcement exception," provides in relevant part as follows:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of section 552.021 if: (1) release of the information would interfere with the detection, investigation or prosecution of crime; [or] (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[.] .

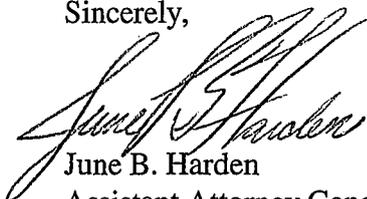
Gov't Code § 552.108(a)(1), (2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You explain this criminal investigation concluded in a dismissal of charges against the suspect. Based on your representations and our review of the documents, we conclude the department has shown the applicability of section 552.108(a)(2) to the submitted records:

However, section 552.108 is inapplicable to 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); *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information which you state has been released, the department may withhold the records pertaining to the shooting under section 552.108(a)(2) of the Government Code. We note the department has the discretion to release all or part of this information that is not otherwise confidential by law. Gov't Code § 552.007.

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,



June B. Harden
Assistant Attorney General
Open Records Division

JBH/sdk

Ref: ID# 398791

Enc. Submitted documents

c: Requestor
(w/o enclosures)
