



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2010

Mr. David M. Douglas  
Assistant City Attorney  
City of Austin Law Department  
P.O. Box 1088  
Austin, Texas 78767

OR2010-16871

Dear Mr. Douglas:

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# 404013.

The Austin Police Department (the "department") received a request for 9-1-1 call recordings and the accompanying call log data related to a specified incident. You claim that the requested 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 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). We note section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal

conduct. See Open Records Decision No. 372 (1983) (statutory predecessor to section 552.108 may be invoked by any proper custodian of law enforcement information).

You state the submitted information pertains to a closed criminal investigation by the Austin Independent School District police department that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude the department 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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 404013

Enc. Submitted documents

c: Requestor  
(w/o enclosures)