



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2010

Mr. Larry L. Foerster
Darden, Fowler and Creighton, L.L.P.
For City of Willis
414 West Phillips Street, Suite 100
Conroe, Texas 77301-2880

OR2010-17520

Dear Mr. Foerster:

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# 401002.

The Willis Police Department (the "department"), which you represent, received a request for information related to a specified incident involving the requestor's client. 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 most of the submitted videotape is not responsive because it does not relate to the incident specified in the request. This decision does not address the public availability of the nonresponsive information, and that information need not be released.

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. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). Section 552.108(a)(2) is applicable only if the information at issue is related to a concluded criminal case "that did

not result in conviction or deferred adjudication.” *Id.* § 552.108(a)(2). Although you claim section 552.108(a)(2), you inform us that the submitted information is related to a pending criminal case. Because your assertion of section 552.108(a)(2) is inconsistent with your representation that the information at issue pertains to a pending case, we find that you have not demonstrated that the information pertains to a case that concluded in a final outcome other than a conviction or a deferred adjudication. Accordingly, the department may not withhold the submitted responsive information under section 552.108(a)(2) of the Government Code. As you raise no further exceptions to disclosure, the submitted responsive information must be released.¹

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,



Jennifer Burnett
Assistant Attorney General
Open Records Division

¹We note the information being released contains the Texas driver’s license number and social security number of the requestor’s client. Therefore, the requestor has a special right of access to this information under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a) (person’s authorized representative has special right of access to information that relates to the person and that is protected from disclosure by laws intended to protect person’s privacy interests). We further note this office issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver’s license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information, the department is authorized to withhold the Texas driver’s license number at issue under section 552.130 without the necessity of requesting an attorney general decision. We also note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

JB/dls

Ref: ID# 401002

Enc. Submitted documents

c: Requestor
(w/o enclosures)