



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 27, 2011

Ms. Jessica C. Eales  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2011-01473

Dear Ms. Eales:

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# 407105 (GC Nos. 17891 and 17924).

The City of Houston (the "city") received two requests from the same requestor for all files, including Office of Inspector General investigative files, relating to a specified police department incident report number and the investigation of a named city employee. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

You claim the submitted information is excepted from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See* 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

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .302(e)(1)(A). We note the submitted information includes both a criminal investigation and administrative investigations. Section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App. — El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). You inform us that the submitted information pertains to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to the submitted information.

Section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See* Gov't Code § 552.108(c). Section 552.108 (c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 at 186-88 (Tex. App.— Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976)(per curiam), and includes a detailed description of the offense. *See also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city 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,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/tf

Ref: ID# 407105

Enc. Submitted documents

c: Requestor  
(w/o enclosures)