



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 29, 2011

Mr. B. Chase Griffith
Brown & Hofmeister, LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2011-04309

Dear Mr. Griffith:

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# 412562 (Flower Mound #1105).

The Town of Flower Mound (the "town"), which you represent, received a request for records resulting from calls or complaints made from a specified address or by either of two specified persons naming the requestor, his wife, or anyone residing at his residence as a suspect. You state some information has been released to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note a portion of the submitted information is not responsive to the request. Incident numbers 04035842 and 07048054 do not name the requestor, his wife, or anyone residing at his residence as a suspect. Incident numbers 024994 and 10015639 did not result from calls from the two named persons or specified address, nor do they name the requestor, his wife, or anyone residing at his residence as a suspect. This ruling does not address the public availability of non-responsive information, and the town is not required to release non-responsive information in response to this request. As to the submitted responsive information, we will address your argument against disclosure.

Section 552.108(a)(2) provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

...

(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)(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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the responsive information, incident numbers 0912719, 0917645, and 09030045, are closed cases in which no further action will be taken. Thus, you contend these reports relate to cases that did not result in conviction or deferred adjudication. Based on your representation and our review, we find section 552.108(a)(2) applies to the information at issue.

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) (summarizing types of information considered to be basic information), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976). Thus, with the exception of basic information, the town may withhold the three responsive reports 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, 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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 412562

Enc. Submitted documents

c: Requestor
(w/o enclosures)