



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2011

Ms. Luz E. Sandoval-Walker
Assistant City Attorney
City of El Paso
2 Civic Center Plaza, 9th Floor
El Paso, Texas 79901

OR2011-06932

Dear Ms. Sandoval-Walker:

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# 417897.

The City of El Paso (the "city") received a request for the transcript and audio recording of a specified 9-1-1 call. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you submitted the incident report and dispatch summary pertaining to the specified 9-1-1 call as responsive to the request. However, the requestor seeks only the 9-1-1 call recording and transcript. Thus, the report and summary we marked are not responsive to the request. This ruling does not address the public availability of non-responsive information, and the city is not required to release such information in response to the request.

Next, we note you have not submitted the requested 9-1-1 call transcript. To the extent this transcript existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

You claim the submitted call recording 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 investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.302(e)(1)(A). You inform us that the call recording at issue pertains to a concluded criminal investigation that resulted in acquittal. Based on your representation and our review, we conclude the city may withhold the submitted 9-1-1 call recording under section 552.108(a)(2) of the Government Code. As our ruling is dispositive, we need not address your remaining raised argument against disclosure.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/eeg

Ref: ID# 417897

Enc. Submitted documents

c: Requestor
(w/o enclosures)