



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2012

Mr. Jesse Blakley, Jr.
Assistant District Attorney
Brazoria Criminal District Attorney
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2012-08506

Dear Mr. Blakley:

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# 455390.

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for information related to a specified fatal accident. You claim the submitted information is excepted from disclosure pursuant to section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information, a portion of which is a representative sample.¹

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. *See* Gov't Code 552.108(a)(2). Section 552.108(b)(2) excepts "[a]n internal record or notation of a law enforcement agency that is maintained for internal use in matters

¹We assume the "representative sample" of information 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.

relating to law enforcement or prosecution . . . if . . . the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]” *Id.* § 552.108(b)(2). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.302(e)(1)(A).

You inform us the submitted information is related to the detection, investigation, and prosecution of crime. Although you claim the information at issue is excepted from disclosure under section 552.108(a)(2), you state the sheriff’s office “has begun an investigation of this incident but has not filed criminal charges.” However, sections 552.108(a)(2) and 552.108(b)(2) are 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), (b)(2) (emphasis added). Thus, having considered your representations, we find you failed to show the submitted information relates to a criminal case that has concluded in a final result. Accordingly, we find you have not demonstrated the applicability of section 552.108(a)(2) or section 552.108(b)(2). *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply). We therefore conclude the sheriff’s office may not withhold any of the submitted information under section 552.108(a)(2) or section 552.108(b)(2) of the Government Code.

We note some of the submitted information is subject to section 552.130 of the Government Code, which excepts from disclosure information that relates to a motor vehicle title or registration issued by an agency of this state or another state or country.² *Id.* § 552.130(a)(2). Upon review, we find the sheriff’s office must withhold the information we have marked in the submitted documents, as well as the information we have indicated in the submitted audio recording, under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the sheriff’s office must release the remaining information.

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

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

A handwritten signature in cursive script, appearing to read "Jennifer Burnett", with a long horizontal flourish extending to the right.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 455390

Enc. Submitted documents

c: Requestor
(w/o enclosures)