



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 24, 2012

Mr. Elliot M. Barner
Counsel for the City of West University Place
Johnson, Radcliffe, Petrov & Bobbitt, P.L.L.C.
1001 McKinney, Suite 1000
Houston, Texas 77002-6424

OR2012-15174

Dear Mr. Barner:

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# 466067.

The City of West University Place Police Department (the "department") received a request for all call slips, reports, and recordings associated with three specified incidents. You claim that 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.

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 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 incidents at issue are "not considered the subject of an open investigation nor has the incident resulted in conviction or deferred adjudication." Although you claim the submitted information is excepted from disclosure under section 552.108(a)(2), you state this information relates to an ongoing investigation and prosecution of crime. 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). Therefore, we conclude the department may not withhold any of the submitted information under section 552.108(a)(2) or section 552.108(b)(2) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ *Id.* § 552.130. Upon review, we find the department must withhold the driver’s license numbers we have marked under section 552.130 of the Government Code. The remaining information must be released.²

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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/tch

¹The 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).

²We note that the requestor has a special right of access to some of the information being released in this instance. Gov’t Code § 552.023. Thus, should the department receive another request from a different requestor, it should again seek a ruling from this office.

Ref: ID# 466067

Enc. Submitted documents

c: Requestor
(w/o enclosures)