



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2013

Mr. John A. Haislet
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2013-07817

Dear Mr. Haislet:

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# 486926.

The College Station Police Department (the "department") received a request for information concerning a specified arrest, including information concerning the related internal affairs investigation. You state the department will release some of the information. You also state the department will withhold information pertaining to the internal affairs investigation pursuant to the previous determination issued to the department in Open Records Letter No. 2003-01986 (2003). *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 7–8 (2001). You claim 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. 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2–3 (1986). You state the submitted information concerns an investigation by the department that the Brazos County Attorney's Office refused for prosecution. Thus, you argue the investigation has concluded

and did not result in a conviction or deferred adjudication. Based on these representations, we agree the department may withhold the information we marked under section 552.108(a)(2) of the Government Code.¹

We note, however, you marked some of the submitted information as being part of an internal affairs investigation. Section 552.108 is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *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 do not state this internal affairs investigation resulted in a criminal investigation. Accordingly, we find you have not demonstrated the applicability of section 552.108 of the Government Code for this information, and it may not be withheld on that basis.

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country.² Gov't Code § 552.130(a)(1). The information pertaining to the internal affairs investigation contains audible references to driver's license information. Accordingly, the department must withhold these references under section 552.130 of the Government Code.

In summary, the department may withhold the information we marked under section 552.108(a)(2) of the Government Code. The department must withhold the audible references to driver's license information in the information pertaining to the internal affairs investigation under section 552.130 of the Government Code. The remaining information pertaining to the internal affairs investigation must be released.

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.

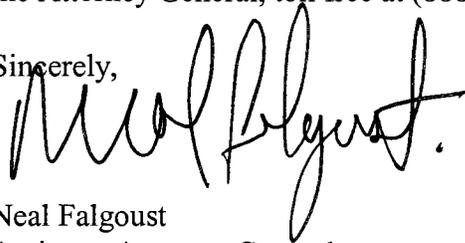
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free,

¹As our ruling is dispositive, we do not address your remaining argument.

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).

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,

A handwritten signature in black ink, appearing to read "Neal Falgoust". The signature is written in a cursive, flowing style.

Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 486926

Enc. Submitted documents

c: Requestor
(w/o enclosures)