



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 23, 2013

Ms. Miriam Rodrigues  
Administrative Assistant  
Harker Heights Police Department  
402 Indian Trail  
Harker Heights, Texas 76548

OR2013-08583

Dear Ms. Rodrigues:

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# 488129.

The City of Harker Heights (the "city") received a request for all recordings and officer's statements regarding a specified incident. 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.

You seek to withhold the submitted information 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. 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. You state the submitted information "has not resulted in conviction or deferred adjudication." However, section 552.108(a)(2) is only applicable 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). Thus, having considered your representations, we find you have failed to show the submitted information relates to a criminal case that concluded in a final result other than conviction or deferred adjudication. Accordingly, we find you have not demonstrated the applicability of section 552.108(a)(2) and the city may not withhold any of the submitted information under section 552.108(a)(2) of the Government Code.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, title, or registration issued by an agency of this state or another state or country is excepted from public release.<sup>1</sup> *Id.* § 552.130(a)(1), (2). The submitted recording contains motor vehicle record information subject to section 552.130. Therefore, the city must withhold the discernible license plates in the video portion of the recording and the audible motor vehicle record information in the audio portion of the recording under section 552.130 of the Government Code. The remaining information 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](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,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 488129

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>The 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).