ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 23, 2013

Ms. Danielle R. Folsom
Assistant City Attorney
Legal Department
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2013-08603

Dear Ms. Folsom:

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# 488185 (GC No. 20353).

The Houston Emergency Center (the "center") received a request for the transcript and 9-1-1 call pertaining to 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.

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or deferred adjudication. 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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A). Section 552.108 may be invoked by any proper custodian of information that relates to the incident. *See* Open Records Decision Nos. 474 (1987), 372 (1983). Where a non-law enforcement agency is in the custody of information relating to a concluded

criminal case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the criminal case that has reached a conclusion other than a conviction or deferred adjudication and a representation from the law enforcement entity that it wishes to withhold the information.

You state the Houston Police Department objects to the release of the submitted information because it pertains to a closed investigation that did not result in conviction or deferred adjudication. Based on your representation and our review of the information at issue, we conclude section 552.108(a)(2) is applicable to the submitted information. Accordingly, the center may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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,

Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/bhf

Ref: ID# 488185

Enc. Submitted documents

c: Requestor
(w/o enclosures)