



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 3, 2013

Mr. David V. Overcash  
Counsel for the City of Anna  
Wolfe, Tidwell & McCoy, LLP  
2591 Dallas Parkway, Suite 205  
Frisco, Texas 75034

OR2013-15311

Dear Mr. Overcash:

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# 498120 (City of Anna File No. C03029PIR20130610-01).

The City of Anna (the "city"), which you represent, received a request for copies of the final judgment for case numbers 2012-5619 and 2012-5620 and a copy of the original complaint filed against the requestor by a specified person. You state you will release some information to the requestor. 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 did not result in conviction or deferred adjudication. *See* 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested).

You state and provide an affidavit from the city's municipal court prosecutor claiming Exhibit 2 pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. However, you also state the submitted information in Exhibit 2 is

“information kept by law enforcement/prosecutors as part of investigations which [are] still pending.” We note section 552.108(a)(2) is applicable only if the information at issue is related to a concluded criminal case that “did not result in conviction or deferred adjudication.” Because you have provided this office with contradictory information, we find you have failed to sufficiently demonstrate the applicability of subsection 552.108(a)(2) to Exhibit 2. See Gov’t Code § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply). Therefore, we conclude the city may not withhold Exhibit 2 under subsection 552.108(a)(2) of the Government Code. As you raise no further exceptions to disclosure, the city must release the submitted 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/akg

Ref: ID# 498120

Enc. Submitted documents

c: Requestor  
(w/o enclosures)