



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 22, 2013

Mr. Glenn Shoemaker  
Records Custodian  
Bell County Communications  
708 West Avenue O  
Belton, Texas 76513

OR2013-18372

Dear Mr. Shoemaker:

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# 503090.

Bell County Communications/9-1-1 (the "county") received a request for a specified audio recording. 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 assert the submitted audio recording is excepted under section 552.108 of the Government Code. 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 has 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). Although section 552.108, by its terms, applies only to a law enforcement agency or a prosecutor, this office has concluded section 552.108 may be invoked by any proper custodian of information related to the underlying incident. *See Open Records Decision No. 474 (1987)*. Where a non-law enforcement agency has custody of information related to a concluded criminal case of a law enforcement agency, the custodian of the records may withhold the information if

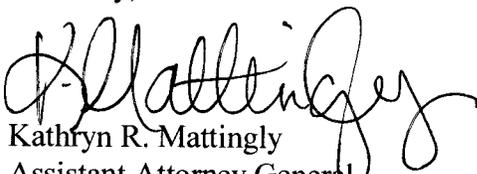
it provides this office with a demonstration that the information is related to a criminal case that has reached a conclusion other than a conviction or deferred adjudication and a representation from a law enforcement entity that it wishes to have the information withheld.

You state, and submit documentation affirming, the Harker Heights Police Department objects to the release of the requested information because it relates to an investigation that did not result in conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to the submitted audio recording. Accordingly, the county may withhold the submitted audio recording under section 552.108(a)(2) of the Government Code on behalf of the Harker Heights Police Department.

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,

  
Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/tch

Ref: ID# 503090

Enc. Submitted documents

c: Requestor  
(w/o enclosures)