



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2013

Mr. Zachariah T. Evans
Akers Law Firm, L.L.P.
6618 Sitio Del Rio, Building E, Suite 102
Austin, Texas 78730

OR2013-19665

Dear Mr. Evans:

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# 505475 (ORR# PIA-090613).

The Balch Springs Police Department (the "department") received a request for information pertaining to a specified incident report. You state the department has released some of the requested information. 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 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).

You argue the submitted information is protected by section 552.108(a)(2) of the Government Code. You state the information "pertains to an investigation that *has not* resulted in a conviction or sentence of deferred adjudication" (emphasis added). However, you also state the information "relates to an investigation by a law enforcement agency that *did not* result in conviction or deferred adjudication" (emphasis added). Moreover, you have

submitted a letter from the department's chief of police stating, "To date, no conviction or sentence of deferred adjudication *has resulted* from the investigation" (emphasis added). Based on these conflicting representations, we find you have failed to demonstrate the submitted information relates to a closed case that did not result in conviction or deferred adjudication. Thus, you have failed to demonstrate the applicability of section 552.108(a)(2) of the Government Code to the submitted information, and the department may not withhold it on that basis. As you raise no further exceptions to disclosure, the submitted 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.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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 505475

Enc. Submitted documents

c: Requestor
(w/o enclosures)