ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2006

Ms. Linda L. Sjogren
Shotts & Sjogren, LLP
P. O. Box 388
Dublin, Texas 76446

OR2006-09030

Dear Ms. Sjogren:

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# 256593.

The City of San Angelo (the "city"), which you represent, received a request for information pertaining to a specified incident. You inform us that the city has released all of the requested information except for the information you have highlighted and the submitted videotape. You claim that this information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.[1] We have considered the exceptions you claim and reviewed the submitted information.

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. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us that the submitted information pertains to a criminal investigation that concluded in results other than

[1]Although you also raise section 552.119 of the Government Code in your comments to this office, you have not submitted any arguments explaining how this section applies to the submitted information. We therefore assume the city is no longer claiming this section as an exception to disclosure for the information at issue. *See* Gov't Code §§ 552.301, .302. Moreover, although you also raise section 552.101 of the Government Code in conjunction with section 552.130 of the Government Code for motor vehicle record information, we note that section 552.101 does not encompass other exceptions listed in the Act.

conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable. Thus, the city may withhold the information you have highlighted as well as the videotape pursuant to section 552.108(a)(2) of the Government Code. As we reach this conclusion, we need not address your remaining arguments against disclosure.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within ten calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Tex. Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for

contacting us, the attorney general prefers to receive any comments within ten calendar days of the date of this ruling.

Sincerely,

Robert B. Rapfogel
Assistant Attorney General
Open Records Division

RBR/eb

Ref: ID# 256593

Enc. Submitted documents

c: Mr. Tim Guerrere
2307 Loop 306
San Angelo, Texas 76904
(w/o enclosures)