



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 26, 2009

Ms. Yushan Chang
Assistant City Attorney
City of Houston, Legal Department
P. O. Box 368
Houston, Texas 77001-0368

OR2009-07041

Dear Ms. Chang:

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# 344050.

The City of Houston (the "city") received a request for incident report numbers 95837492 and 125595792. You state that you have released the entirety of report number 95837492, as well as the "public release information" portion of report number 125595792.¹ You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we must address the city's obligations under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant

¹We assume that the "public release information" you will release is the basic information referred to under section 552.108(c) of the Government Code. Gov't Code § 552.108(c) (requiring the release of basic information about an arrested person, and arrest, or a crime); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information).

to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See* Gov't Code § 552.301(e)(1)(D). The city received the request for information on June 3, 2008, but this office did not receive the city's request for a ruling or the information at issue until March 18, 2009. However, you state, and provide documentation showing, that the city originally requested a ruling and mailed responsive documents to this office on June 17, 2008. You have submitted two affidavits from a city attorney and paralegal supporting this claim. Further, you have provided a postage log dated June 17, 2008 which establishes that the original request was mailed to this office on that date. *See id.* § 552.308(a) (prescribing standards for timeliness of action by United States or common or contract carrier). Although this office did not receive the records mailed on June 17, 2008, based on your representations and our review, we conclude that the city has established that it complied with its procedural obligations with respect to this request. Accordingly, we will address your arguments against disclosure of the submitted information.

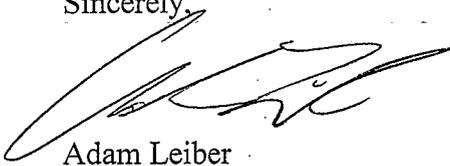
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the submitted information pertains to a criminal investigation involving three suspects, one of whom was given deferred adjudication or convicted in connection with this matter, but that charges against the other two suspects were dismissed. You state that the submitted information regarding these suspects is so intertwined that the investigation could not be segregated. Based upon these representations, we conclude that section 552.108(a)(2) is applicable to the submitted information. Thus, with the exception of the basic front page offense and arrest information, which you state you have already released, the city may withhold incident report number 125595792 under section 552.108(a)(2). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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 at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/jb

Ref: ID# 344050

Enc. Submitted documents

c: Requestor
(w/o enclosures)