



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 2, 2009

Mr. Aaron M. Dorfner
Cotton, Bledsoe, Tighe & Dawson, P.C.
Attorney for City of Midland
P.O. Box 2776
Midland, Texas 79702-2776

OR2009-09173

Dear Mr. Dorfner:

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# 346055.

The City of Midland (the "city"), which you represent, received a request for information pertaining to a specific investigation, including specified reports.¹ You state you have released some of the requested information to the requestor. You claim that the remaining 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 "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in 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. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The submitted information

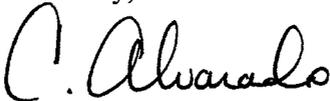
¹We note the city sought clarification regarding this request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

relates to a criminal investigation conducted by the Texas Rangers Division of the Texas Department of Public Safety ("DPS"). We have received correspondence from DPS objecting to the release of the submitted information because it relates to a closed case that did not result in a conviction or deferred adjudication. Based on this representation, we agree that the city may withhold the submitted information pursuant to section 552.108(a)(2) of the Government Code. *See* Open Records Decision Nos. 372 (1983) (statutory predecessor to section 552.108 may be invoked by any proper custodian of law enforcement 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.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,



Christina Alvarado
Assistant Attorney General
Open Records Division

CA/fl

Ref: ID# 346055

Enc: Submitted documents

cc: Requestor
(w/o enclosures)

c: Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001
(w/o enclosures)