



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

July 31, 2009

Ms. Diana Davis
Records Clerk
City of Harker Heights
305 Miller's Crossing
Harker Heights, Texas 76548

OR2009-10643

Dear Ms. Davis:

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# 350909.

The City of Harker Heights (the "city") received a request for report numbers 09014518, 09016406, 09016212, E09-014721, 09015256, and 09-01355. You state that you have released some of the requested information. You claim that 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.

Initially, we note that you have not submitted information pertaining to report number E09-014721. To the extent such information existed on the date of the request, we presume that the city has released it. If not, the city must do so at this time. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 664 (2000) (stating that governing body must produce public information promptly).

Section 552.108(a)(2) of the Government Code excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See*

id. § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(2) is applicable only if the information in question relates to a concluded case that did not result in a conviction or a deferred adjudication. In this instance, you state that “the case has not resulted in a conviction or deferred adjudication.” Having considered your representations, we find that you have not sufficiently shown that the submitted reports relate to concluded investigations that did not result in conviction or deferred adjudication. We therefore conclude that the city may not withhold any of the submitted information under section 552.108(a)(2) of the Government Code. As no other exceptions to disclosure are raised, the submitted information must be released to the requestor.

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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/rl

Ref: ID# 350909

Enc. Submitted documents

c: Requestor
(w/o enclosures)