



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 10, 2009

Mr. B. Chase Griffith
Brown & Hoffmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75801

OR2009-12768

Dear Mr. Griffith:

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# 356910.

The Town of Flower Mound (the "town"), which you represent, received a request for transmission logs, tracking logs, and video recordings of two encounters between town police officers and private individuals and a photograph log of the town's police officers. You have submitted documents stating the town does not possess a tracking log or photograph log of its police officers.¹ 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. We have also received and considered the requestor's comments. *See Gov't Code § 552.304* (interested party may submit written comments concerning disclosure of requested information).

Initially, we address the requestor's contention that the town did not comply with the procedural requirements of the Act in requesting a decision from our office. The requestor asserts that the town failed to comply with section 552.301(b) of the Government Code. Section 552.301 requires a governmental body that desires to withhold information under the

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Act to ask for the attorney general's decision and state the exceptions that apply no later than ten business days after the date of receiving the written request.

In this instance, the town received the request for information on July 10, 2009. Accordingly, the tenth business day by which the town was required to request a decision from this office was July 24, 2009. *See id.* § 552.301(b). The submitted information reveals that the town requested a ruling from this office and submitted the specific information requested by mail bearing a postmark of July 24, 2009. *See id.* § 552.308(a) (ten-day requirement met if request bears post office cancellation mark indicating time within ten-day period). Upon consideration of the requestor's comments and review of the submitted information, we conclude that the town fully complied with the requirements of section 552.301 in requesting this decision.

We now address the town's argument against disclosure of the submitted information. Section 552.108(a)(2) 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. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that "the incidents regarding the requested information have been closed and no further action will be taken." You also inform us that there were no charges filed in response to these incidents. Based on your representation and our review, we conclude that section 552.108(a)(2) applies to the submitted information.

However, section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note that the submitted information contains computer-aided dispatch ("CAD") reports. In Open Records Decision No. 649 (1996), this office concluded that information contained in a CAD report is substantially the same as basic information and thus is not excepted from public disclosure under section 552.108. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, because the information contained in the CAD reports is basic information, that information may not be withheld under section 552.108(a)(2).

In summary, with the exception of basic information, which must be released, the town may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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, toll free, at (888) 672-6787.

Sincerely,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/eeg

Ref: ID# 356910

Enc. Submitted documents

c: Requestor
(w/o enclosures)