



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2009

Ms. Candice M. De La Garza
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2009-16311

Dear Ms. De La Garza:

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# 361573.

The Houston Police Department (the "department") received a request for information pertaining to a specified incident. You claim that the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions 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). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. 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 the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You explain that the department concluded the case by referring the complainant to file Class C charges. However, you do not inform us of the disposition of those charges. Further, we note the shortest possible statute of limitations for an assault is two years, which has not run. *See*

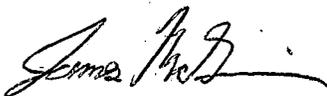
Code Crim. Proc. art. 12.02 (complaint or information on Class C misdemeanor may be presented within two years from date of commission of offense, and not afterward). Thus, you have failed to demonstrate the investigation in the submitted report has concluded in a final result other than conviction or deferred adjudication on the date the department received the request. Therefore, the department may not withhold any of the submitted information under section 552.108(a)(2) of the Government Code.

You assert that some of the submitted information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code §552.130(a)(1), (2). We agree that the department must withhold the Texas motor vehicle information you have marked under section 552.130. As you raise no further exceptions to disclosure, the remaining information must be released.

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,



James McGuire
Assistant Attorney General
Open Records Division

JM/jb

Ref: ID# 361573

Enc. Submitted documents

c: Requestor
(w/o enclosures)