



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 30, 2009

Mr. Robert Massey  
Assistant City Attorney II  
City of Wichita Falls  
P.O. Box 1431  
Wichita Falls, Texas 76307

OR2009-16822

Dear Mr. Massey:

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# 363231 (City ID# 249).

The Wichita Falls Police Department (the "department") received a request for the full report regarding a specific case. You state you have released some information to the requestor. 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.

You raise section 552.108(a)(2) of the Government Code, which 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). You also raise section 552.108(b)(2), which excepts "[a]n internal record or notation of a law enforcement agency that is maintained for internal use in matters relating to law enforcement or prosecution ... if ... the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]" *Id.* § 552.108(b)(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).

You inform us, and have provided a letter from the department's chief of police stating, that the submitted information is related to a police investigation "that *has not resulted* in a conviction or deferred adjudication" (emphasis added). You also state that "[t]o the extent that a case resulted in no conviction or deferred adjudication regarding the suspect, the [department] contends that the investigation records requested are protected from disclosure." We note that section 552.108(a)(2) and section 552.108(b)(2) are applicable only if the information at issue is related to a concluded criminal case "that *did not result* in conviction or deferred adjudication." Gov't Code § 552.108(a)(2), (b)(2) (emphasis added). Thus, having considered your representations and the police chief's letter, we find that you have not demonstrated that the submitted information falls within the scope of section 552.108(a)(2) or section 552.108(b)(2). *See id.* § 552.301(e)(1)(A). We therefore conclude that the department may not withhold any of the submitted information under section 552.108 of the Government Code. As the department claims no other exception to disclosure, all of the submitted 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](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/rl

Ref: ID# 363231

Enc. Submitted documents

c: Requestor  
(w/o enclosures)