ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 6, 2012

Mr. B. Chase Griffith
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-08703

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# 459718.

The Town of Flower Mound (the "town"), which you represent, received a request for report number 12017536. You claim the requested 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 the submitted information contains the requestor's fingerprints. Section 560.003 provides that "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." Gov't Code § 560.003. Section 560.002 provides, however, that "[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]" *Id.* § 560.002(1)(A). Thus, section 560.002(1)(A) gives an individual or his authorized representative a right of access to his own fingerprint information. Accordingly, the requestor has a right of access to his own fingerprints under section 560.002(1)(A). Although you assert this information is excepted from disclosure under section 552.108 of the Government Code, statutes governing the release of specific information prevail over the general exceptions to disclosure found in the Act. *See* Attorney General Opinion DM-146 at 3 (1992); *see also* Open Records Decision Nos. 613 at 4 (1993) (exceptions to Act cannot impinge on statutory right of access

to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, the town must release the requestor's fingerprints to him pursuant to section 560.002.

We will now address your claim against disclosure of the remaining information. Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in a conviction or deferred adjudication. *See* 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 concluded in a final result other than conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information pertains to a criminal investigation that has been closed with no charges being filed. You further state the investigation concluded and did not result in conviction or deferred adjudication. Based on your representations and our review, we find section 552.108(a)(2) is applicable to the remaining information.

However, section 552.108 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). Thus, with the exception of basic information, which must be released, the town may withhold the remaining information under section 552.108(a)(2).

In summary, the town must release the requestor's fingerprints to him pursuant to section 560.002 of the Government Code. With the exception of basic information, which must be released, the town may withhold the remaining information under section 552.108(a)(2) of the Government Code.[1]

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

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[1]As our ruling is dispositive, we need not address your argument under section 552.108(b)(2) of the Government Code.

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,

Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/ag

Ref: ID# 459718

Enc. Submitted documents

c: Requestor
(w/o enclosures)