



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 6, 2014

Ms. Molly Cost
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2014-07653

Dear Ms. Cost:

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# 521972 (DPS PIR# 14-0714).

The Texas Department of Public Safety (the "department") received a request for any and all information pertaining to the investigation of a specified individual, including all documents between the department and the Nacogdoches County Commissioner's Court (the "commissioner's court") and the Nacogdoches County Attorney's Office (the "county attorney's office") pertaining to the investigation. You claim 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 you did not submit any information responsive to the request for documents between the department and the commissioner's court and the county attorney's office. Further, you have not indicated that such information does not exist or that you wish to withhold any such information from disclosure. Therefore, to the extent information responsive to this aspect of the request exists, we assume the department has released it to the requestor. If the department has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Next, you inform us that portions of the responsive information were previously the subject of a request for information. In Open Records Letter No. 2012-11003 (2012), we determined, with the exception of basic information, the department may withhold information pertaining to a 2001 investigation of the specified individual under section 552.108(a)(2) of the Government Code. As to this information, you state there has been no change in the law, facts, or circumstances on which the previous ruling was based. Thus, with regard to the information previously ruled upon, the department may continue to rely on Open Records Letter No. 2012-11003 as a previous determination and withhold or release the information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure).

Section 552.108(a)(2) of the Government Code 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 the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2-3 (1986). You state the referenced investigation has concluded and did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) of the Government Code is applicable.

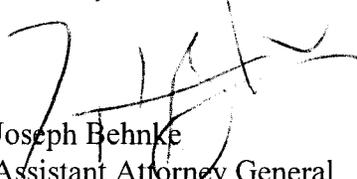
However, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87. This information includes, but is not limited to, a sufficient portion of the narrative to include a detailed description of the offense. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the department may continue to rely on Open Records Letter No. 2012-11003 as a previous determination and withhold or release the information at issue in accordance with that ruling. With the exception of basic information, the department may withhold the remaining requested 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 521972

Enc. Submitted documents

c: Requestor
(w/o enclosures)