



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 8, 2016

Ms. Jackie Fisher-Davis
Records Clerk
Harker Heights Police Department
402 Indian Trail
Harker Heights, Texas 76548

OR2016-17710

Dear Ms. Fisher-Davis:

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# 621865.

The City of Harker Heights (the "city") received a request for information regarding two specified incidents pertaining to the requestor.¹ You state the city has released some information to the requestor. 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 some of the submitted information is not responsive to the present request. This ruling does not address the public availability of the non-responsive information, which we have marked, and the city need not release it in response to this request.

Next, we note that you have submitted only one incident report responsive to the request. To the extent any additional responsive information existed on the date the city received this request, we assume you have released it. If you have not released any such records, you must do so. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000)

¹We note the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

(if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 has concluded in a final result other than a 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 inform us case number H09-03204 concluded with "case closed" and in a final result other than a conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this case.

We note, and you acknowledge, 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 Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which you state the city has released, the city may withhold case number H09-03204 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,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/dls

Ref: ID# 621865

Enc. Submitted documents

c: Requestor
(w/o enclosures)