



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 27, 2020

Ms. Guadalupe Garcia
Pharr Police Department
1900 South Cage
Pharr, Texas 78577

OR2020-26955

Dear Ms. Garcia:

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# 850934 (ORR# P001292).

The Pharr Police Department (the "department") received a request for report number 20-15434. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

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). The department seeks to withhold the information under section 552.108(a)(2) "due to no conviction [or] deferred adjudication currently." The department further states "[the] Hidalgo County District Attorneys [sic] has not heard the case yet." We note section 552.108(a)(2) is applicable only if the information at issue is related to a concluded criminal case "that *did not* result in conviction or deferred adjudication[.]" *See id.* § 552.108(a)(2) (emphasis added). Upon review, we find the department has failed to demonstrate the information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Thus, the department has not demonstrated the applicability of section 552.108(a)(2) to the information. Accordingly, the department may not withhold any of the submitted

information under section 552.108(a)(2) of the Government Code. The department must release the submitted information to this requestor.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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 850934

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹ We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the department receives another request for the same information from a different requestor, the department must again seek a decision from this office.