



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

July 31, 1998

Mr. Cary L. Bovey  
Brown McCarroll Sheets & Crossfield, L.L.P.  
309 E. Main Street  
Round Rock, Texas 78664-5246

OR98-1807

Dear Mr. Bovey:

On behalf of the City of Round Rock (the "city"), you ask whether certain information is subject to required public disclosure under the Open Records Act, chapter 552 of the Government Code. Your request was assigned ID# 117260.

The city received a request for a tape recording of a 911 call pertaining to a certain incident that occurred on March 3, 1998. You assert that the requested tape is excepted from required public disclosure based on Government Code sections 552.103 and 5525.108(a)(2) and (b)(2).

Section 552.108(a)(2) of the Government Code reads as follows:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

...

(2) 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[.]

Section 552.108(a)(2) applies to information relating to a criminal investigation or prosecution that concluded in a result other than a conviction or deferred adjudication. You inform us that the case involved a city patrol officer shooting and killing a man with a handgun. You state that the Round Rock Police Department investigated the incident and concluded that the patrol officer acted in conformance with departmental policy. You also state that the Texas Rangers investigated the case and the Williamson County District

Attorney's office present the case to a grand jury, which no-billed the officer. Thus, we believe the city has established that this case concluded in a result other than a conviction or deferred adjudication. Accordingly, the city may withhold the tape from public disclosure based on section 552.108(a)(2).

We are resolving this matter with this informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and may not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Kay Hastings  
Assistant Attorney General  
Open Records Division

KHH/mjc

Ref.: ID# 117260

Enclosure: Submitted tape

cc: Mr. Robert Haslam  
The Haslam Firm  
1320 S. University, Suite 804  
Fort Worth, Texas 76107  
(w/o enclosure)