



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 10, 2009

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2009-09539

Dear Mr. Reinwand:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 348631 (PIR No. 09-25036).

The Arlington Police Department (the "department") received a request from the State Medical Board of Ohio for the police reports of an investigation of possession of marijuana involving a named person. The department asserts it must withhold the information under section 552.107(2) of the Government Code, which excepts information from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). The department submitted the Texas Department of Public Safety's Notice of Order of Nondisclosure instead of the court order itself. Thus, section 552.107(2) does not apply. Rather, the proper exception is section 552.142 of the Government Code. Accordingly, we will consider the applicability of section 552.142 to the submitted information.

Section 552.142 of the Government Code pertains to records of certain deferred adjudications and provides:

- (a) Information is excepted from the requirements of Section 552.021 if an order of nondisclosure with respect to the information has been issued under Section 411.081(d).
- (b) A person who is the subject of information that is excepted from the requirements of Section 552.021 under this section may deny the occurrence of the arrest and prosecution to which the information relates and the

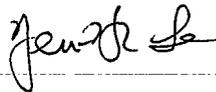
exception of the information under this section, unless the information is being used against the person in a subsequent criminal proceeding.

Id. § 552.142. Section 411.081(d) of the Government Code authorizes a person placed on deferred adjudication for certain offenses to petition the court for an order of nondisclosure, which prohibits criminal justice agencies from disclosing to the public criminal history record information related to the offense giving rise to the deferred adjudication. *Id.* § 411.081(d). Under this provision, a criminal justice agency may only disclose criminal history record information that is the subject of the order to other criminal justice agencies, for criminal justice or regulatory purposes; non-criminal justice agencies listed in section 411.081(i); or the person who is the subject of the order. *Id.* In this instance, the department provided documentation showing a court issued an order of nondisclosure pursuant to section 411.081(d) prohibiting release of the submitted information. The requestor is not an entity or individual enumerated in section 411.081(i) who is entitled to receive information subject to the order. Accordingly, the department must withhold the requested information under section 552.142 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.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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Yen-Ha Le
Assistant Attorney General
Open Records Division

YHL/sdk

Ref: ID# 348631

Enc: Submitted documents

c: Requestor
(w/o enclosures)