



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 19, 2011

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2011-00845

Dear Ms. Brown:

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# 406607 (ORR #EDWS102610).

The Plano Police Department (the "department") received a request for (1) audio and video recordings from the police vehicle used in relation to a specified citation; (2) record of the radar used in relation to the citation; (3) record of the manufacturer's recommended maintenance procedure for the radar device used in relation to the citation; (4) record of the manufacturer's user guide instruction in capturing speed of a motor vehicle for the radar used in relation to the citation; and (5) 2010 maintenance records for the radar used in relation to the citation. 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 items four and five of the request. Therefore, to the extent this information existed on the date the department received the request, we assume you have released it to the requestor. If you have not released any such information, you must release it to the requestor at this time. Gov't Code §§ 552.301(a); .302; Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.108 of the Government Code provides in part:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

- (1) release of the information would interfere with the detection, investigation or prosecution of crime;
- (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;
- (3) it is information relating to a threat against a peace officer or detention officer collected or disseminated under Section 411.048; or
- (4) it is information that:
  - (A) is prepared by an attorney representing the state in anticipation of or in the course of preparing for criminal litigation; or
  - (B) reflects the mental impressions or legal reasoning of an attorney representing the state.

Gov't Code § 552.108(a). You raise section 552.108(a). Section 552.108(a)(1) is applicable to information whose release would interfere with a pending criminal investigation or prosecution. Section 552.108(a)(2) is applicable only to information relating to a concluded criminal investigation that did not result in a conviction or a deferred adjudication. Section 552.108(a)(3) is applicable to information that relates to a threat against a police officer. Section 552.108(a)(4) is applicable to information that was prepared by an attorney representing the state or that reflects the mental impressions or legal reasoning of an attorney representing the state. A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A).

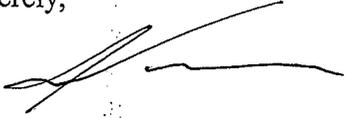
You indicate the submitted information pertains to a pending investigation and release of the submitted information would interfere with the detection, investigation, and prosecution of the underlying crime. Based on your representation, we conclude section 552.108(a)(1) is generally applicable in this instance. *See 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.*, 536 S.W.2d 559 (Tex. 1976) (*per curiam*). Accordingly, the department may withhold the submitted information under section 552.108(a)(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 [http://www.oag.state.tx.us/open/index\\_orl.php](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, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/vb

Ref: ID# 406607

Enc. Submitted documents

c: Requestor  
(w/o enclosures)