



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 2, 2011

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

OR2011-01711

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# 407971 (Plano ORR# GRAD111210).

The Plano Police Department (the "department") received a request for the name of the department's information technology person; the department's policies and procedures regarding uploading and preserving video recordings of driving while intoxicated ("DWT") arrests; the personnel records of a named officer; the total number of DWI arrests made by the named officer; and all computer-aided dispatch ("CAD") and mobile data terminal ("MDT") records involving the named officer for a specified time period. You state you have released some information to the requestor. You state that the department has no information relating to the total number of DWI arrests made by the named officer.<sup>1</sup> 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.

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<sup>1</sup>We note the Act does not require a governmental body to release information that did not exist at the time the request for information was received or create new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the present request for information because it is not within the requested time period for the CAD and MDT records. Accordingly, this ruling will not address such non-responsive information, and the department need not release it in response to this request.

Section 552.108 of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). 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); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us the personnel records attached as Exhibit D pertain to a department officer who is a witness in a pending criminal prosecution. You indicate the CAD and MDT records attached as Exhibit E pertain to the same pending criminal investigation and prosecution. Based on your representations, we conclude the release of the submitted records would interfere with the detection, investigation, or prosecution of crime. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may withhold the submitted responsive records under section 552.108(a)(1) 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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 407971

Enc. Submitted documents

c: Requestor  
(w/o enclosures)