



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 17, 2012

Mr. Jeffrey L. Moore
Brown & Hofmeister, L.L.P.
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2012-07362

Dear Mr. Moore:

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# 457840.

The Colony Police Department (the "department"), which you represent, received two requests from the same requestor for a probable cause affidavit related to a specified arrest of a named individual. You claim that the requested 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.

We first note the requestor specifically seeks access to a probable cause affidavit related to a specified arrest. The submitted records consist, however, of an arrest sheet and a police report. As the requestor does not seek access to the submitted records, we conclude they are not responsive to the present request for information. Therefore, the department need not release the submitted records in response to the request, and this decision does not address the department's exception to their disclosure.

You state the requested probable cause affidavit did not exist at the time the department received either request for information. We note the Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *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), 555 at 1 (1990). Therefore, because you state the department possesses no responsive

information, the department is not required to release any information in response to the instant request.

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, toll free, at (888) 672-6787.

Sincerely,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 457840

Enc. Submitted documents

c: Requestor
(w/o enclosures)