



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 25, 2012

Ms. Debra L. Goetz  
Counsel for Hidalgo County Sheriff's Department  
Atlas, Hall & Rodriguez, LLP  
P.O. Box 3725  
McAllen, Texas 78502-3725

OR2012-09768

Dear Ms. Goetz:

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# 456989.

The Hidalgo County Sheriff's Department (the "department"), which you represent, received a request for the affidavits and video pertaining to case number 2011-30116. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note portions of the information you have submitted are not responsive to the instant request, which seeks only the affidavits and video pertaining to the case at issue. This ruling does not address the public availability of the non-responsive information, nor is the department required to release non-responsive information in response to this request.

You raise section 552.108 of the Government Code for the submitted responsive information. Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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." Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred

adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue pertains to a closed criminal investigation that the district attorney's office declined to prosecute and that therefore did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude the department may withhold the responsive information under section 552.108(a)(2).

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,



Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/som

Ref: ID# 456989

Enc. Submitted documents

c: Requestor  
(w/o enclosures)