



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 31, 2012

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

OR2012-11927

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# 460830.

The Plano Police Department (the "department") received a request for a named officer's employment records. You claim that 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 representative sample of information.<sup>1</sup> We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Section 552.108(a)(1) 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[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us the submitted personnel records pertain to an officer who is the arresting officer, witness, and victim in a pending criminal prosecution. You also state the Collin County District Attorney's Office

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

has advised the department it objects to the release of the submitted information because of the officer's involvement in this pending prosecution. Based on your representations and our review, we find the release of the submitted information 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 describes law enforcement interests that are present in active cases), *writ ref'd per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, the requestor claims that because the individual being prosecuted is not his client and, because he is not requesting the information for reasons related to the pending prosecution, the information is not properly withheld from him on the basis of section 552.108(a)(1). However, the Act does not permit the consideration by a governmental body or this office of a requestor's intended use, or, conversely, non-use, of information when responding to open records requests. *See* Gov't Code § 552.223 (requiring uniform treatment of all requests for information); *see also* Open Records Decision Nos. 508 at 2 (1988) (motives of a person seeking information under the Act are irrelevant), 51 (1974). Additionally, because the department may not treat the current request any differently than a request for the same information from any other member of the public, including a person who would use the information at issue to undermine officer's testimony, the requestor's lack of involvement in the case is of no relevance to whether release of this information would interfere with that case. *See* Gov't Code § 552.007 (prohibiting selective disclosure). Therefore, the department may withhold the submitted information 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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/som

Ref: ID# 460830

Enc. Submitted documents

c: Requestor  
(w/o enclosures)