



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2012

Ms. Tiffany Bull
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2012-17921

Dear Ms. Bull:

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# 470892 (APD Ref. No. 8821).

The Arlington Police Department (the "department") received a request for information regarding a specified incident. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note a portion of the submitted information, which we have marked, is not responsive to the present request for information because it was created after the department received the request. This ruling does not address the public availability of non-responsive information, and the department need not release non-responsive information in response to this request.

Section 552.108 provides, in pertinent part:

¹We assume that 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.

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

- (1) release of the internal record or notation would interfere with law enforcement or prosecution; [or]
- (2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(b). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information pertains to a criminal investigation. You further state that "our agency has determined that criminal charges should not be filed, thus there is not a conviction or deferred adjudication related to this matter." Accordingly, we understand you to raise section 552.108(b)(2) of the Government Code. Based on your representations and our review, we agree section 552.108(b)(2) is applicable to the submitted information, and the department may withhold the submitted information on that basis.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, 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,



Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 470892

Enc. Submitted documents

c: Requestor
(w/o enclosures)