



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2014

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2014-12673

Dear Ms. Quinn:

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# 530461.

The Cedar Park Police Department (the "department") received a request for audio and video recordings pertaining to a specified incident. 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.

Initially, we understand the requestor to assert he has a right of access to the requested information under the Michael Morton Act, which amends article 39.14 of the Texas Code of Criminal Procedure. However, we note this amendment only applies to the prosecution of an offense committed on or after January 1, 2014. *See* Act of May 16, 2013, 83rd Leg., R.S., S.B. 1611, §§ 3-4. We note the requested information pertains to an offense that was committed prior to January 1, 2014. Thus, we find this section inapplicable. We further note the Act differs in purpose from statutes and procedural rules providing for discovery in judicial proceedings. *See* Gov't Code §§ 552.005 (the Act does not affect scope of civil discovery), .0055 (subpoena duces tecum or request for discovery issued in compliance with statute or rule of civil or criminal procedure is not considered to be request for information under the Act). The discovery process is a process through which parties to litigation can obtain information pertaining to the litigation. A public information request under the Act is a process in which any individual may request information from a governmental body.

Thus, the discovery process has no bearing on the availability of information requested under Act.

Next, we note some of the submitted information, which we have indicated, is not responsive to the instant request because it is not audio or video recordings pertaining to the specified incident. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release such information in response to this request.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 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 submitted responsive information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the submitted responsive information. Thus, the department may withhold the submitted responsive information under section 552.108(a)(2) 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/ds

Ref: ID# 530461

Enc. Submitted documents

c: Requestor
(w/o enclosures)