



Office of the Attorney General
State of Texas

DAN MORALES
ATTORNEY GENERAL

March 17, 1998

Captain Robert Taylor
Amarillo Police Department
City of Amarillo
200 E. 3rd
Amarillo, Texas 79101-1514

OR98-0736

Dear Mr. Taylor:

You ask this office to reconsider our rulings in Open Records Letter Nos. 98-0011 (1998), 98-0012 (1998), and 98-0035 (1998). Your requests for reconsideration were assigned ID#s 113697, 113692, and 113844.

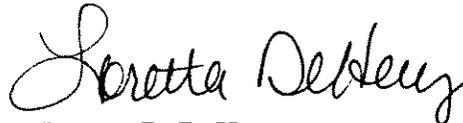
The Amarillo Police Department (the "department") received requests for information relating to various department files. In Open Records Letter Nos. 98-0011 (1998), 98-0012 (1998), and 98-0035 (1998), we concluded that the department could not withhold the requested records under section 552.108 of the Government Code. We stated that a governmental body claiming section 552.108(a)(2) must demonstrate, if the documents do not clearly show on their face, that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication.

In an attempt to demonstrate the applicability of section 552.108 to these requests for information, you now inform us that the records at issue in two of the rulings, Open Records Letter Nos. 98-0011 (1998) and 98-0012 (1998), involve cases that are closed and unadjudicated. Furthermore, you explain that the records at issue in Open Records Letter No. 98-0035 (1998) relate to a case that is pending prosecution. You have provided us with additional arguments in an attempt to demonstrate the applicability of section 552.108 to these requests for information. A governmental body must explain the reasons why the stated exceptions apply within fifteen days of receiving the request. *See* Gov't Code § 552.301. You did not timely submit all your arguments under section 552.108 in connection with the department's original requests for rulings. We, therefore, affirm Open Records Letter Nos. 98-0011 (1998), 98-0012 (1998), and 98-0035 (1998).

You also contend that our rulings in Open Records Letter Nos. 98-0011 (1998), 98-0012 (1998), and 98-0035 (1998) are inconsistent with Open Records Letter No. 97-2798 (1997). In Open Records Letter No. 97-2798 (1997), we relied on your markings on certain files as "unadjudicated" to mean that "the offense reports relate to cases that have not been and will not be adjudicated." We further concluded that based on that *assumption*, the department could withhold the records under section 552.108(a)(2). The records at issue in Open Records Letter Nos. 98-0011 (1998), 98-0012 (1998), and 98-0035 (1998) did not plainly indicate, and you did not inform us in your original requests for rulings, that the cases were closed and unadjudicated. Therefore, although the rulings may be different, we believe that they are not inconsistent.

If you have questions about this ruling, please contact our office.

Yours very truly,



Loretta R. DeHay
Deputy Chief
Open Records Division

LRD/rho

Ref.: ID#s 113697, 113692, and 113844

Enclosure: Submitted documents

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