



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 5, 2009

Ms. Angela M. DeLuca
Assistant City Attorney
City of Bryan
P.O. Box 1000
Bryan, Texas 77805

OR2009-13955

Dear Ms. DeLuca:

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# 357720.

The Bryan Police Department (the "department") received a request for information pertaining to incident report number 09-0400969. You claim the requested 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, you state some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-07401 (2009). In Open Records Letter No. 2009-07401 we concluded that, with the exception of basic information, the department may withhold incident report number 09-0400969 pursuant to section 552.108(a)(2) of the Government Code. As we have no indication that the law, facts, and circumstances surrounding this prior ruling have changed, you may continue to rely

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.

on Open Records Letter No. 2009-07401 as a previous determination and withhold or release the responsive information in this request that was previously ruled on in accordance with this prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We note, however, that portions of the submitted information were created after the date that the previous request for information was received. Thus, this information was not submitted to this office for a determination and was therefore not the subject of the previous ruling. Accordingly, we will address the your arguments against disclosure of the remaining information that is not subject to Open Records Letter No. 2009-07401.

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 that 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that the remaining submitted information relates to a criminal investigation that did not result in a conviction or deferred adjudication. Based on your representations, and our review, we find that section 552.108(a)(2) is applicable in this instance. Thus, the department may withhold the remaining submitted information under section 552.108(a)(2) of the Government Code.²

In summary, the department may continue to rely on Open Records Letter No. 2009-07401 as a previous determination and withhold or release the responsive information in this request that was previously ruled on in accordance with this prior ruling. The department may withhold the remaining information pursuant to 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.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

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

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,

A handwritten signature in black ink, appearing to read "Amy Shipp", written in a cursive style.

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 357720

Enc. Submitted documents

cc: Requestor
(w/o enclosures)