



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 10, 2009

Mr. Adam C. Falco  
Senior Assistant City Attorney  
City of College Station  
P.O. Box 9960  
College Station, Texas 77842

OR2009-17465

Dear Mr. Falco:

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# 364433.

The College Station Police Department (the "department") received a request for all training records and disciplinary records pertaining to a named officer. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that a portion of the submitted information is not responsive to the instant request for information. The requestor only seeks the training and disciplinary records pertaining to the named officer. In addition to the requested records, you have also submitted to this office as Exhibit 3 an incident report that does not pertain to the officer's training or disciplinary records. 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 that information in response to the request.

We next address your argument to withhold the responsive information in Exhibit 2 under section 552.108 of the Government Code. Section 552.108(a)(1) 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." See Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the

release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the officer named in the request is expected to be a witness in a criminal case that is currently pending in the Brazos County District Court. You inform us that the responsive information is related to the pending criminal prosecution. You also contend that the information at issue could be used at trial to determine the credibility of the officer, his competency to testify, and his qualification as an expert witness. Based on these representations, we conclude that the release of this 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the department may withhold the responsive information in Exhibit 2 under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 364433

Enc. Submitted documents

c: Requestor  
(w/o enclosures)