



February 11, 2015

Ms. June Harden
Assistant Attorney General
Assistant Public Information Coordinator
General Counsel Division
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711-2548

OR2015-02727

Dear Ms. June Harden:

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# 553351 (OAG PIR No. 14-40376).

The Office of the Attorney General (the "OAG") received a request for all records pertaining to a specified criminal investigation conducted by the OAG. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" *Id.* § 552.108(a)(2). A governmental body

¹This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

claiming section 552.108(a)(2) must demonstrate that 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 information at issue pertains to a concluded criminal investigation conducted by the OAG's Criminal Prosecutions Division and no charges were filed. Based on your representations, we conclude the OAG may withhold the submitted information under section 552.108(a)(2).

We note the requestor states she represents an individual who the requestor contends has a right of access to the requested information pursuant to section 552.023 of the Government Code. Section 552.023 provides, in pertinent part, that "[a] person or a person's authorized representative has a special right of access, beyond that of the general public, to information held by a governmental body . . . that is protected from public disclosure by laws intended to protect that person's privacy interests." *Id.* § 552.023(a). We note, however, a governmental body may assert as grounds for denial of access other provisions of the Act or other law that is not intended to protect the person's privacy interests. *See id.* § 552.023(b). In this instance, we have determined section 552.108 of the Government Code is applicable to the information at issue. This exception is not intended to protect the privacy interests of any individuals; rather, it protects the governmental body's interests. *See id.* § 552.108 (section 552.108 intended to protect criminal law enforcement and prosecutorial interests). Thus, section 552.023 does not provide a special right of access to information excepted from disclosure under section 552.108. Consequently, section 552.023 does not provide the requestor a special right of access to the information at issue.

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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 553351

Enc. Submitted documents

c: Requestor
(w/o enclosures)