



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 11, 2015

Ms. Linda A. Samples  
Assistant City Attorney  
Office of the City Attorney  
The City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2015-26030

Dear Ms. Samples:

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# 590253 (Case No. 15-1026-6696).

The El Paso Police Department (the "department") received a request for video recordings related to a specified case. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information. Additionally, we have considered comments from the requestor. *See* Gov't Code § 552.304 (interested third party may submit comments stating why information should or should not be released).

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 id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate 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)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information relates to a concluded criminal case that did not result in conviction or deferred adjudication. Based on your

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<sup>1</sup>Although you also raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we presume you have withdrawn your claim this exception applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

representation and our review, we find section 552.108(a)(2) of the Government Code is applicable to the information at issue.

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. Accordingly, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>2</sup>

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](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

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

Ref: ID# 590253

Enc. Submitted documents

c: Requestor  
(w/o enclosures)