



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 29, 2015

Mr. Devon N. Whatley
City Secretary
City of Lone Star
P.O. Box 218
Lone Star, Texas 75668

OR2015-15427

Dear Mr. Whatley:

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# 573376.

The City of Lone Star (the "city") received a request for a list of all drugs seized by the city's police department (the "department") during a specified time period.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor only seeks the types and amounts of drugs seized by the department during the specified time period. Accordingly, the remaining information you have submitted is not responsive to the request for information. This ruling does not address the public availability of non-responsive information, and the city is not required to release non-responsive information in response to this request.

¹You state the city sought and received clarification of the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Section 552.108 of the Government Code provides, in relevant part:

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution [or]

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(b)(1)–(2). Section 552.108(b)(1) encompasses internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. In contrast, section 552.108(b)(2) protects law enforcement records pertaining to a criminal investigation or prosecution that concluded in a final result other than a conviction or a deferred adjudication. A governmental body claiming section 552.108 must reasonably explain how and why the exception it claims is applicable to the information the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why claimed exceptions to disclosure apply); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state “[m]any of the cases identified in the requested documents are active cases.” However, you do not specifically identify what portion of the responsive information relates to an active investigation or prosecution. Further, we find you have failed to demonstrate how the release of any portion of the responsive information would interfere with law enforcement or crime prevention. Accordingly, the city may not withhold any of the responsive information under section 552.108(b)(1) of the Government Code. You also state, and provide documentation demonstrating, the information you have marked under section 552.108(b)(2) pertains to criminal cases that concluded in results other than conviction or deferred adjudication. Therefore, the city may withhold the information you have marked under section 552.108(b)(2) of the Government Code. As you raise no further exceptions to disclosure, the city must release the remaining responsive information.

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,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 573376

Enc. Submitted documents

c: Requestor
(w/o enclosures)