



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 6, 2017

Mr. Ricardo Vela, Jr.
Assistant District Attorney
Dallas County District Attorney's Office
133 North Riverfront Boulevard, LB-19
Dallas, Texas 75207-4399

OR2017-00461

Dear Mr. Vela:

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# 640549.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case: (1) the date(s) the prosecutor interviewed the complainant and arresting officers; (2) the dates(s) the prosecutor related the contents/records of the interviews to defense counsel; (3) the dates discovery was given to defense counsel; and (4) the response to a specified motion to dismiss. You state you do not have information responsive to the fourth item of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.108 and 552.111 of the Government Code.² We have also received and considered comments from the requestor. *See Gov't Code* § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

²Although you also raise section 552.107 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn the claim this section applies to the submitted information. *See Gov't Code* §§ 552.301, .302. Additionally, although you raise Texas Rule of Civil Procedure 192.5, we note the proper exception to raise when asserting the work product privilege for information not subject to section 552.022 of the Government Code is section 552.111 of the Government Code. *See Open Records Decision* Nos. 677 (2002), 676 at 1-2.

Initially, we note some of the submitted information is not responsive to the instant request because it does not consist of: (1) the date(s) the prosecutor interviewed the complainant and arresting officers; (2) the dates(s) the prosecutor related the contents/records of the interviews to defense counsel; or (3) the dates discovery was given to defense counsel. This ruling does not address the public availability of any information that is not responsive to the request and the district attorney's office is not required to release such information in response to this request.

Section 552.108(a)(2) of the Government Code exempts 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 responsive information pertains to a concluded case that did not result in conviction or deferred adjudication. Based on your representation and our review, we agree section 552.108(a)(2) of the Government Code is applicable to the responsive information, and the district attorney's office may withhold it on that basis.³

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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/bw

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Ref: ID# 640549

Enc. Submitted documents

c: Requestor
(w/o enclosures)