



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 21, 2017

Ms. Julie P. Doshier
Counsel for the City of Farmers Branch
Nichols, Jackson, Dillard, Hager & Smith
1800 Ross Tower
500 North Akard
Dallas, Texas 75201

OR2017-21692

Dear Ms. Doshier:

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# 676584 (Ref # 88094).

The City of Farmer's Branch (the "city"), which you represent, received a request for an internal affairs investigation involving a named individual. You state you have released some of the information. You claim some of 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.

Section 552.108(b) of the Government Code excepts from disclosure "[a]n 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 if (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)(2). A governmental body claiming section 552.108(b)(2) must demonstrate the information at issue relates to a concluded criminal case that did not result in 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). We note section 552.108 is generally not applicable to records of internal affairs investigations that are purely administrative in nature and do not involve the investigation or prosecution of crime. *See City of Fort Worth v.*

Cornyn, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution). The information at issue consists of internal affairs investigation documents. Although you state the information at issue was generated as part of a criminal investigation that did not result in a conviction or deferred adjudication, upon review, we find this information is part of an internal affairs investigation conducted by the city's police department that is purely administrative in nature. Therefore, we conclude you have failed to demonstrate the applicability of section 552.108(b)(2) to the information at issue and the city may not withhold it under section 552.108(b)(2) of the Government Code. As you raise no further exceptions to disclosure, the city must release the submitted 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,



Sidney M. Pounds
Assistant Attorney General
Open Records Division

SMP/gw

Ref: ID# 676584

Enc. Submitted documents

c: Requestor
(w/o enclosures)