



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 20, 2022

Ms. Derenda Rush
Records Division
Amarillo Police Department
200 Southeast Third Avenue
Amarillo, Texas 79101-1514

OR2022-01608

Dear Ms. Rush:

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# 927964 (ORR# 21-3473).

The Amarillo Police Department (the "department") received a request for records related to three specified incidents. The department states it does not maintain information related to one of the specified incidents.¹ The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

¹ The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Initially, the department states case number 1992-0019153 was the subject of a previous request for information from the same requestor, as a result of which this office issued Open Records Letter No. 2021-27625 (2021). In that ruling, we determined the department must withhold the information at issue under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, the department must rely on Open Records Letter No. 2021-27625 as a previous determination and withhold case number 1992-0019153 in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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* Gov't Code § 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). The department states case number 1993-0092760 relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to case number 1993-0092760.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold case number 1993-0092760 under section 552.108(a)(2) of the Government Code.

In summary, the department must rely on Open Records Letter No. 2021-27625 as a previous determination and withhold case number 1992-0019153 in accordance with that ruling. With the exception of the basic information, which must be released, the department may withhold case number 1993-0092760 under section 552.108(a)(2) of the Government Code.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/jxd

Ref: ID# 927964

Enc. Submitted documents

c: Requestor
(w/o enclosures)