



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 7, 2017

Ms. Laura Anne Coats  
Assistant District Attorney  
Dallas County District Attorney's Office  
113 North Riverfront Boulevard, LB-19  
Dallas, Texas 75207-4399

OR2017-07362

Dear Ms. Johnson:

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# 652416.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-01205 (2017). In that ruling, we determined the following: (1) with the exception of the court-filed documents subject to section 552.022(a)(17) of the Government Code, the DIC-24 and DIC-25 forms, and the basic information, the district attorney's office may withhold the information at issue under section 552.108(a)(1) of the Government Code; (2) the district attorney's office must withhold a certain date of birth under section 552.101 of the Government Code in conjunction with common-law privacy; (3) the district attorney's office must withhold certain motor vehicle record information under section 552.130 of the Government Code; and (4) the district attorney's office must release the remaining information. Section 552.007 of the Government Code provides information that has been voluntarily released to a member of the public may not subsequently be withheld from

another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Accordingly, the district attorney's office may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential under law. Although you raise section 552.108 of the Government Code for the previously released information, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See* Gov't Code § 552.007; Open Records Decision No. 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the district attorney's office may not withhold the previously released information under section 552.108. Additionally, we find the circumstances have changed since the issuance of the previous ruling, and the department may not rely on Open Records Letter No. 2017-01205 as a previous determination. However, we will address whether the information not previously released is otherwise excepted from disclosure.

Next, we address your argument under section 552.108 of the Government Code for the information that was not previously released. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information at issue relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the information at issue. Accordingly, we find the district attorney's office may withhold the information not previously released pursuant to Open Records Letter No. 2017-01205 under section 552.108(a)(2) of the Government Code.<sup>1</sup> The remaining information must be released.

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.

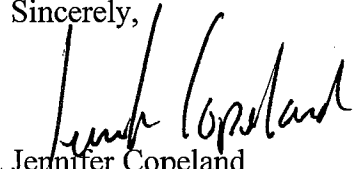
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

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<sup>1</sup>As our ruling on this information is dispositive, we need not address your remaining arguments against its disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Jennifer Copeland  
Assistant Attorney General  
Open Records Division

JC/sb

Ref: ID# 652416

Enc. Submitted documents

c: Requestor  
(w/o enclosures)