



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Ms. Rebecca Lundberg
Assistant Criminal District Attorney
Kaufman County Criminal District Attorney's Office
100 West Mulberry Street
Kaufman, Texas 75142

OR2017-28250

Dear Ms. Lundberg:

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# 687844.

The Kaufman County Criminal District Attorney's Office (the "district attorney's office") received a request for the booking and arrest report and the arrest warrant related to a specified cause number. You state you have released information regarding the arrest warrant to the requestor. You claim the remaining requested 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 some of the submitted information, which we marked, is not responsive to the instant request for information because it does not consist of the booking and arrest report. 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) 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). You state the submitted information relates to a criminal case in which the defendant received pre-trial diversion. *See Attorney General Opinion GA-0114* at 2 (2003) (explaining the concept of “pre-trial diversion” and “pre-trial intervention” as differing from “deferred adjudication”). You have provided this office with a representation that all of the conditions of the pre-trial diversion have been completed in this instance and the case has been dismissed. As such, you assert that the case at issue has concluded in a final result other than a conviction or deferred adjudication. Based on your representations, and our review, we find that section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” 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). Accordingly, with the exception of basic information, the district attorney’s office may withhold the submitted booking and arrest report 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 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/tdw

Ref: ID# 687844

Enc. Submitted documents

c: Requestor
(w/o enclosures)