



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 6, 2019

Ms. Kristie L. Lewis  
Staff Attorney  
Houston Police Department  
1200 Travis, 21st Floor  
Houston, Texas 77002-6000

OR2019-15071

Dear Ms. Lewis:

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# 769377 (ORU No. 19-03003).

The Houston Police Department (the "department") received a request for records pertaining to the requestor. You claim 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 representative sample of information.<sup>1</sup>

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. 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); Open Records Decision No. 434 (1986). We note section 552.108 is generally not applicable to information that is purely administrative in nature and does not involve the investigation

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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. 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); *see also* Open Records Decision No. 350 at 3-4 (1982). You state the submitted information pertains to closed criminal cases that did not result in prosecution. Based on your representations, we find the department has demonstrated most of the submitted information pertains to closed criminal cases that did not result in convictions or deferred adjudications. Thus, with the exception of the information we have marked for release, we agree section 552.108(a)(2) is applicable to the submitted information. However, upon review, we note the information we have marked for release is purely administrative in nature, and is not information that deals with the detection, investigation, or prosecution of crime only in relation to a criminal investigation that concluded in a final result other than conviction or deferred adjudication. Therefore, you have failed to demonstrate the applicability of section 552.108(a)(2) the information we have marked for release and the department may not withhold it on that basis.

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 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, and the information we have marked for release, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code. As you raise no further arguments against disclosure, the department must release the remaining information.<sup>2</sup>

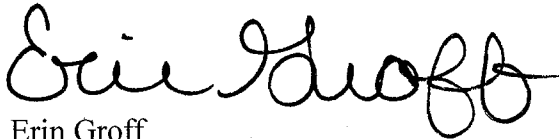
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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<sup>2</sup>We note the requestor has a right of access to some of the information being released in this instance. *See* Gov’t Code §§ 552.023(a), .137(b). We note this office has previously issued Open Records Letter No. 2017-00878 (2017), a previous determination authorizing the City of Houston to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office. *See* Gov’t Code § 552.301(a); Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). We also note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain information, including an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, if the department receives another request for this information from a different requestor, the department must withhold the requestor’s date of birth in accordance with the previous determination issued in Open Records Letter No. 2017-00878 and must withhold the requestor’s personal e-mail address under section 552.137 of the Government Code pursuant to Open Records Decision No. 684.

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

Sincerely,

A handwritten signature in black ink, appearing to read "Erin Groff". The signature is fluid and cursive, with the first name "Erin" and last name "Groff" clearly distinguishable.

Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/gw

Ref: ID# 769377

Enc. Submitted documents

c: Requestor  
(w/o enclosures)