



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 27, 2019

Ms. Meagan T. Scott
Assistant General Counsel
Harris County District Attorney's Office
1310 Prairie, Suite 500
Houston, Texas 77002-1901

OR2019-27101

Dear Ms. Scott:

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# 788052 (ORR# 2019.07-0028, 2019.07-0120).

The Harris County District Attorney's Office (the "district attorney's office") received two requests from the same requestor for information pertaining to a specified case number. The district attorney's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.¹ We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor asserts the district attorney's office failed to comply with its procedural obligations of the district attorney's office under section 552.301 of the Government Code, which prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov't Code § 552.301(b). The district attorney's office informs us it

¹ We assume 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 those records contain substantially different types of information than that submitted to this office.

received the request for information on July 3, 2019, and we understand it was closed on July 4, 2019. Thus, the district attorney's office's ten-business-day deadline to request a ruling was July 18, 2019. The envelope containing the request for a ruling from this office is postmarked July 18, 2019. *See* Gov't Code § 552.308 (describing rules for calculating submission dates of documents sent via first class United States mail). Therefore, the district attorney's office complied with the procedural requirements mandated by section 552.301. Accordingly, we will address its arguments to withhold the submitted information.

Section 552.108(a)(2) of the Government Code 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 information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The district attorney's office states 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 "pre-trial diversion" and "pre-trial intervention" as differing from "deferred adjudication"). The district attorney's office informs us the conditions of the pre-trial diversion have been completed and the case has been dismissed. As such, the district attorney's office asserts that the case at issue has concluded in a final result other than a conviction or deferred adjudication. Based on these representations, we find that section 552.108(a)(2) is applicable to the information at issue.

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* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the district attorney's office must release, the district attorney's office may withhold the submitted information under section 552.108(a)(2) of the Government Code.²

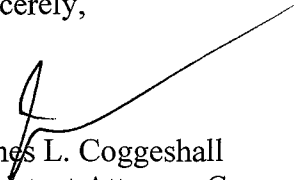
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

² As our ruling is dispositive, we do not address the other arguments of the district attorney's office to withhold this information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

Ref: ID# 788052

Enc. Submitted documents

c: Requestor
(w/o enclosures)