



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 28, 2020

Mr. Tommy L. Coleman  
Assistant District Attorney  
Polk County  
101 West Mill Street, Suite 247  
Livingston, Texas 77351

OR2020-02632

Dear Mr. Coleman:

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# 808355.

The Polk County District Attorney's Office (the "district attorney's office") received a request for communications between the district attorney's office and the Polk County Sheriff's Office, the Office of the Attorney General (the "OAG"), or the Texas Rangers during specified time periods. You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.111 of the Government Code. Additionally, you provide documentation showing you notified the OAG of the right to submit comments to this office why the submitted information should not be released. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the OAG. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note you have only submitted communications involving the OAG. To the extent information responsive to the remainder of the request existed on the date the district attorney's office received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

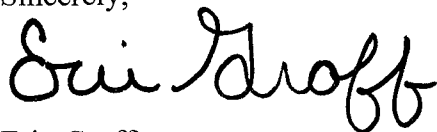
Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to 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). Where a governmental body has custody of information relating to a case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the case and a representation from the law enforcement agency that it wishes to have the information withheld. The OAG objects to the release of the submitted information under section 552.108(a)(2) because it pertains to a criminal investigation it conducted that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information. Thus, the district attorney's office may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the OAG.<sup>1</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.

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,



Erin Groff  
Assistant Attorney General  
Open Records Division

EMG/jxd

Ref: ID# 808355

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

Third Party  
(w/o enclosures)

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<sup>1</sup> As our ruling is dispositive, we need not address the remaining arguments against disclosure of the submitted information.