



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 2, 2020

Mr. David Fulton
Assistant Criminal District Attorney
Randall County
2309 Russell Long Boulevard, Suite 120
Canyon, Texas 79015

OR2020-22179

Dear Mr. Fulton:

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# 843257 (2020-PIA-134).

Randall County (the "county") received a request for information pertaining to a specified incident involving 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 information.

Section 552.108 of the Government Code provides, in relevant part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of 552.021 if:

...

(2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the [required public disclosure] if:

...

(2) the internal record or notation relates to law enforcement only in relation to an investigation that did not result in a conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming section 552.108(a)(2) or section 552.108(b)(2) must demonstrate the information at issue 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 pertains to an investigation that “has not yet resulted” in a conviction or deferred adjudication. However, we note sections 552.108(a)(2) and 552.108(b)(2) are only applicable if the information at issue is related to a concluded criminal case that “did not result in conviction or deferred adjudication” (emphasis added). *See id.* § 552.108(a)(2), (b)(2). Thus, we find you have failed to demonstrate the applicability of section 552.108(a)(2) or section 552.108(b)(2) to the submitted information, and the county may not withhold the submitted information on those bases. As no further exceptions to disclosure have been raised, the county must release the submitted information.¹

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

¹ We note the requestor has a right of access to some of the information being released. *See* Gov't Code §§ 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles), 560.002; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, if the county receives another request for the same information from a different requestor, the county must again seek a decision from this office.

Mr. David Fulton - Page 3

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,

Alexandra C. Burks
Attorney
Open Records Division

ACB/gw

Ref: ID# 843257

Enc. Submitted documents

c: Requestor
(w/o enclosures)