



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 19, 2020

Mr. Michael C. Hayes  
City Attorney  
City of Kerrville  
701 Main Street  
Kerrville, Texas 78028

OR2020-26242

Dear Mr. Hayes:

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# 849878.

The Kerrville Police Department (the "department") received a request for certain recordings pertaining to a specified incident. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the department claims and reviewed the submitted information.

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* 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). The department states the submitted information pertains to an investigation conducted by the Texas Rangers that has concluded and did not result in a conviction or deferred adjudication. Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1989). Where an agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to a criminal case of another law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the criminal case and a representation from the other law enforcement agency that it wishes to have the information withheld. In this instance, the department has not

provided a representation from the Texas Rangers, nor have the Texas Rangers provided a representation to this office, stating the Texas Rangers wish to have the information at issue withheld. Accordingly, the department has failed to demonstrate section 552.108(a)(2) of the Government Code is applicable to the submitted information, and the department may not withhold it on that basis.

We note some of the submitted information is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov't Code § 552.130. Accordingly, the department must withhold all visible license plates in the submitted information under section 552.130 of the Government Code. The department must release the remaining information.

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,

Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/jxd

Ref: ID# 849878

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).