



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 21, 2020

Mr. Arthur L. Bryan
Counsel for City of Burkburnett
Shahan Guevara Decker & Arrott
201 South Lakeline Boulevard, Suite 704
Cedar Park, Texas 78613

OR2020-32021

Dear Mr. Bryan:

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# 859689.

The Burkburnett Police Department (the "department"), which you represent, received a request for seven categories of information pertaining to a specified incident involving the requestor's client. You state you will make information available to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹ We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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). The department states the submitted information relates to a closed criminal investigation that did not result in a conviction or deferred adjudication.

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

Based on this representation and our review, we agree section 552.108(a)(2) is applicable to the submitted information.

However, 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 also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which must be released, the department 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 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,

Pearlie Gault
Attorney
Open Records Division

PG/rm

Ref: ID# 859689

Enc. Submitted documents

c: Requestor
(w/o enclosures)

² As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* Occ. Code § 1701.661(a), (e).