



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 10, 2010

Mr. David Daugherty
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-12096

Dear Mr. Daugherty:

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# 389773 (C.A. File No. 10GEN1089).

The Harris County Sheriff's Office (the "sheriff") received a request for a specified mugshot. You claim that the requested 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 pertinent 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 Section 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 requirements of Section 552.021 if:

...

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

Gov't Code § 552.108(a)(2), (b)(2). A governmental body claiming subsection 552.108(a)(2) or subsection 552.108(b)(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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the sheriff objects to release of the submitted mugshot because it relates to a matter "still pending in the 179th Judicial District Court of Harris County" and the matter "did not result in a conviction or deferred adjudication." We note section 552.108(a)(2) is applicable only if the information at issue is related to a *concluded* criminal case "that did not result in conviction or deferred adjudication." *Id.* § 552.108(a)(2). Because you have provided this office with conflicting representations, we find that you have failed to demonstrate the information at issue relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Accordingly, the sheriff may not withhold the submitted information under subsection 552.108(a)(2) or subsection 552.108(b)(2) of the Government Code. As you raise no further exceptions to disclosure, the submitted information must be released.

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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 389773

Enc. Submitted documents

cc: Requestor
(w/o enclosures)