



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2011

Ms. Janice Childers
Record Clerk
Rusk County Sheriff's Office
210 Charleviox Street
Henderson, Texas 75652

OR2011-08195

Dear Ms. Childers:

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# 421897.

The Rusk County Sheriff's Office (the "sheriff") received a request for information pertaining to the death of a named individual. We understand you to claim that the responsive information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have also received comments from an interested third party. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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[.]" *Id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A). You state that the submitted information pertains to a concluded criminal case that did not result in conviction or deferred adjudication. Based upon your representation and our review, we conclude section 552.108(a)(2) is applicable to this information.

We note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g 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). Thus, with the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(2).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 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 421897

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We understand you to argue that the submitted photographs and video should not be released because they are graphic and releasing them would impinge on the privacy rights of the deceased individual's family. See Gov't Code § 552.101 (excepting from disclosure information made confidential by other law, including the constitutional right to privacy). We note, however, that the submitted photographs and video are not considered basic information and thus may be withheld under section 552.108(a)(2) of the Government Code.