



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 23, 2012

Ms. Janet I. Monteros
Assistant County Attorney
El Paso County
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2012-01061

Dear Ms. Monteros:

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# 442901 (CA-11-437).

The El Paso County Sheriff's Office (the "sheriff") received a request for information concerning a specified case number. You state the sheriff has released basic information to the requestor.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred

¹Basic 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).

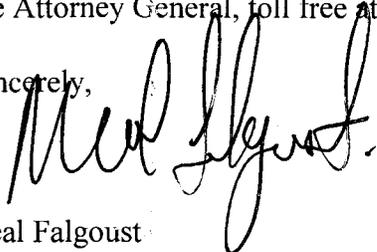
²We note you have also marked the submitted information under section 552.103 of the Government Code. However, you make no arguments to support this exception. Accordingly, we find the sheriff has waived its claim under this exception. See Gov't Code § 552.301(e) (governmental body must provide comments stating why exceptions raised should apply to information requested).

adjudication.³ 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2-3 (1986). You state the referenced investigation has been inactivated and there was no prosecution. Thus, we understand you to argue the case is concluded and did not result in a conviction or deferred adjudication. Based on these representations and our review of the submitted information, we agree the sheriff may withhold the submitted information under section 552.108(a)(2) of the Government Code. As our ruling is dispositive, we do not address your remaining claimed exception.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/agn

Ref: ID# 442901

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³Although you mark the submitted information under subsection 552.108(a)(1), you have submitted arguments under subsection 552.108(a)(2). Accordingly, we address your arguments under subsection 552.108(a)(2).