



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 2, 2012

Mr. Russell W. Malm  
County Attorney  
Midland County  
500 North Loraine, Suite 1101  
Midland, Texas 79701

OR2012-10190

Dear Mr. Malm:

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# 457721.

The Midland County District Attorney's Office (the "district attorney's office") received a request for specified video recordings. You claim the submitted 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.

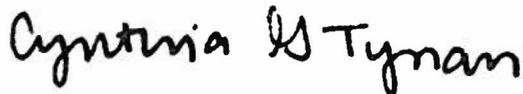
We understand you to raise section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) 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). You state that the submitted information relates to a criminal case in which the defendant received pre-trial diversion. *See* Attorney General Opinion GA-0114 at 2 (2003) (explaining the concept of "pre-trial diversion" and "pre-trial intervention" as differing from "deferred adjudication"). You have provided this office with a representation that all of the conditions of the pre-trial diversion have been completed in this instance and the case has been dismissed. As such, you assert that the case at issue has concluded in a final result other than

a conviction or deferred adjudication. Based on your representations, and our review, we find that section 552.108(a)(2) is applicable to the submitted information. Accordingly, the district attorney's office may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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](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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/ag

Ref: ID# 457721

Enc. Submitted documents

c: Requestor  
(w/o enclosures)