



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 20, 2015

Mr. Scott A. Durfee
Assistant General Counsel
Harris County District Attorney's Office
1201 Franklin, Suite 600
Houston, Texas 77002

OR2015-05371

Dear Mr. Durfee:

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# 558203.

The Harris County District Attorney's Office (the "district attorney's office") received a request for a police report regarding the death of a named individual. You state you have released some information to the requestor. 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.

Initially, we note the submitted information contains a custodial death report. Article 49.18(b) of the Code of Criminal Procedure provides the Office of the Attorney General shall make the custodial death report available to any interested person, with the exception of any portion of the report that the attorney general determines is privileged. *See* Crim. Proc. Code art. 49.18(b). The format of a custodial death report was revised in May 2006 and now consists of four pages and an attached summary of how the death occurred. The Office of the Attorney General has determined the four-page report and summary must be released to the public, but any other documents submitted with the revised report are confidential under article 49.18(b). Although you seek to withhold the custodial death report under section 552.108 of the Government Code, the exceptions to disclosure found in the Act generally do not apply to information other statutes make public. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989). Accordingly, the district attorney's office must release the submitted custodial death report pursuant to article 49.18(b) of the Code of Criminal Procedure.

The district attorney's office asserts the remaining information is excepted from disclosure under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the remaining information pertains to a case that concluded in a result other than conviction or deferred adjudication. Accordingly, based on the representation of the district attorney's office, we agree section 552.108(a)(2) is applicable to the remaining 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* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the custodial death report, which must be released pursuant to Article 49.18(b) of the Code of Criminal Procedure, and the basic information, which you state has been released, 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rustam Abedinzadeh
Assistant Attorney General
Open Records Division

RA/dls

Ref: ID# 558203

Enc. Submitted documents

c: Requestor
(w/o enclosures)