



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 8, 2015

Ms. Kathryn Kraft  
Assistant Criminal District Attorney  
Civil Division  
County of Dallas  
411 Elm Street, 5th Floor  
Dallas, Texas 75202-3317

OR2015-06755

Dear Ms. Kraft:

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# 559216.

The Dallas County Constable's Office, Precinct 2 (the "constable's office") received a request for five categories of information related to all incidents of officer-involved shootings during a specified period of time. You assert some information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information.

You argue a portion of the submitted information consists of judicial records not subject to the Act. The Act applies only to information "written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business" by a governmental body. Gov't Code § 552.002. However, the Act's definition of "governmental body" does not include the judiciary. *Id.* § 552.003(1)(B). Information "collected, assembled, or maintained by or for the judiciary" is not subject to the Act but instead is "governed by rules adopted by the Supreme Court of Texas or by other applicable laws and rules." *Id.* § 552.0035(a); *cf.* Open Records Decision No. 131 (1976) (applying statutory predecessor to judiciary exclusion under Gov't Code § 552.003(1)(B) prior to enactment of Gov't Code § 552.0035). You state the information on pages 70 through 72

consists of information maintained by the Adult Information System, which is an electronic computer database maintained by the Dallas County Sheriff's Office on behalf of the county judiciary regarding criminal offenses and offenders in the county. However, we note the information at issue is maintained by the constable's office and was developed in the course of the constable's office's investigation. Consequently, we find you have failed to demonstrate the information on pages 70 through 72 was collected, assembled, or maintained by or for the judiciary. Accordingly, pages 70 through 72 are subject to the Act.

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 adjudication. 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). Section 552.108 may be invoked by the proper custodian of information relating to the investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a governmental body has custody of information that would otherwise qualify for exception under section 552.108 as information relating to a criminal investigation by another law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to an investigation and a representation from the law enforcement agency that it wishes to have the information withheld. You have submitted documentation from the Garland Police Department (the "department") objecting to the disclosure of the submitted information because it pertains to a concluded investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the information at issue.

However, we note 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 also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of basic information, the constable's office may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the department.<sup>1</sup>

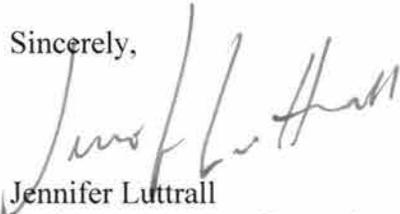
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

---

<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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](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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/bhf

Ref: ID# 559216

Enc. Submitted documents

c: Requestor  
(w/o enclosures)