



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 2, 2011

Ms. Katie Lentz
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2011-05971

Dear Ms. Lentz:

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# 416081.

The Williamson County Sheriff's Office (the "sheriff") received a request for four categories of information related to a specified incident, including the name, rank, and employment history of the officers who fired their weapons; the name of victim involved in the incident; and the public portion of the incident report.¹ We understand you will release some of the responsive information to the requestor. You claim that the submitted information is exempted 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 Personnel Salary History document is subject to section 552.022 of the Government Code. This section provides, in pertinent part:

(a) [T]he following categories of information are public information and not exempted from required disclosure under this chapter unless they are expressly confidential under other law:

¹We note that the sheriff sought and received clarification regarding the information requested. See Gov't Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

- ...
- (2) the name, sex, ethnicity, salary, title, and dates of employment of each employee and officer of a governmental body[.]

Gov't Code § 552.022(a)(2). In this instance, the requestor specifically seeks the officer's name, rank, and date of employment. This submitted information is subject to section 552.022(a)(2) of the Government Code, and must be released unless it is confidential under "other law." Although you raise section 552.108 of the Government Code for the information at issue, this is a discretionary exception to disclosure that protects a governmental body's interests and is, therefore, not "other law" for purposes of section 552.022(a)(2). *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the sheriff may not withhold the submitted Personnel Salary History document under section 552.108. However, we will consider your arguments under section 552.108 of the Government Code for the information not subject to section 552.022.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the remaining information relates to a pending criminal case. We note the remaining information consists of administrative records. Section 552.108(a)(1) is ordinarily not applicable to internal administrative records that are not related to an investigation or prosecution of crime. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution). However, you state the administrative records pertain to a pending criminal investigation. Based on your representations and our review, we find that release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the sheriff may withhold the remaining information under section 552.108(a)(1) 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, 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/em

Ref: ID# 416081

Enc. Submitted documents

c: Requestor
(w/o enclosures)