



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2014

Mr. Robert J. Davis
Counsel of Collin County
Matthews, Stein, Shiels, Pearce, Knott, Eden & Davis, L.L.P.
8131 LBJ Freeway, Suite 700
Dallas, Texas 75251

OR2014-16478

Dear Mr. Davis:

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# 537351 (Your File No. 1600/65997).

The Collin County Sheriff's Office (the "sheriff's office"), which you represent, received a request for all audio and video recordings of a specified incident, as well as the names and badge numbers of all officers involved in the incident. You state the sheriff's office does not maintain audio recordings of the specified incident.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you claim the portion of the request seeking the names and badge numbers of all officers involved in the incident requires the sheriff's office to answer questions. A governmental body is not required to answer factual questions, conduct legal research, or create new information in responding to a request for information under the Act. See ORDs 563 at 8, 555 at 1-2. A governmental body must make a good-faith effort, however, to relate a request to responsive information that is within its possession or control. See Open Records Decision No. 561 at 8-9 (1990). We assume the sheriff's office has done so. Accordingly, to the extent any information containing the names and badge numbers of the officers involved in the incident existed at the time the sheriff's office received the

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

request, we assume it has been released. If the sheriff's office has not released any such information, it must do so at this time. *See* Gov't Code §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if a governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible under circumstances).

Section 552.108(a) 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: (1) 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(a)(1) must reasonably explain how and why the release of the information at issue would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You provide a representation from an assistant chief with the sheriff's office stating the submitted information relates to a pending criminal investigation being conducted by the sheriff's office. Based on this representation, we conclude release of the submitted 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, 186-87 (Tex. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.²

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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

²As our ruling is dispositive, we need not address your remaining arguments against disclosure.

Ref: ID# 537351

Enc. Submitted documents

c: Requestor
(w/o enclosures)