



February 6, 2015

Ms. Susan Fillion
Assistant County Attorney
Harris County Attorney's Office
1200 Baker Street, Second Floor
Houston, Texas 77002

OR2015-02400

Dear Ms. Fillion:

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# 552947 (Ref. No. 14SO600296).

The Harris County Sheriff's Office (the "sheriff's office") received a request for any documents filed with the sheriff's office's Internal Affairs Division pertaining to two named officers. 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.

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). Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information 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 (Tex. 1977). We note section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *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). Exhibit B-1 consists of an administrative investigation of an officer of the sheriff's office. However, you state this information relates to an open and active criminal investigation, and assert release of that information would interfere with the investigation. Based upon this representation, we conclude the release of Exhibit B-1 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). Therefore, we find section 552.108(a)(1) of the Government Code is applicable to Exhibit B-1.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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); Open Records Decision No. 434 (1986). As noted above, section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. See *City of Fort Worth*, 86 S.W.3d 320; *Morales*, 840 S.W.2d 519, 525-26. Exhibit B-2 consists of administrative investigations of officers of the sheriff's office. However, you state this information relates to closed criminal investigations that did not result in conviction or deferred adjudication. Based on this representation and upon our review, we find section 552.108(a)(2) of the Government Code is applicable to the information we have marked in Exhibit B-2. However, the remaining information at issue reflects it was generated as part of internal investigations conducted by the department that were purely administrative in nature. You do not provide any arguments explaining how the internal investigations resulted in a criminal investigation or prosecution. Therefore, you have failed to demonstrate the applicability of section 552.108(a)(2) to the remaining information in Exhibit B-2, and the sheriff's office may not withhold this information on that basis.

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the sheriff's office may withhold Exhibit B-1 under section 552.108(a)(1) of the Government Code and the information we have marked in Exhibit B-2 under section 552.108(a)(2) of the Government Code.

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental

body in a non-employment capacity and the individual elects to keep the information confidential.¹ Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure[.]" *Id.* § 552.1175(a)(1). Thus, to the extent the information we have marked relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code. If the individual whose information is at issue is not currently a licensed peace officer or does not elect to restrict access to the information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

In summary, with the exception of basic information, which must be released, the sheriff's office may withhold Exhibit B-1 under section 552.108(a)(1) of the Government Code and the information we have marked in Exhibit B-2 under section 552.108(a)(2) of the Government Code. To the extent the information we have marked relates to a licensed peace officer who elects to restrict access to his information in accordance with section 552.1175(b), it must be withheld from disclosure under section 552.1175 of the Government Code. The sheriff's office must release the remaining information.

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,



Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/dls

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Ref: ID# 552947

Enc. Submitted documents

c: Requestor
(w/o enclosures)