



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2015

Ms. Jennifer Matte
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2015-07719

Dear Ms. Matte:

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# 560832 (C.A. File No. 15PIA0049).

The Harris County Constable's Office, Precinct 1 (the "constable's office") received a request for the disciplinary file and evaluations pertaining to a named individual and the maintenance logs from the named individual's squad car. 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 you have only submitted documents pertaining to the category of the request relating to the named individual's disciplinary file and evaluations. However, you have not submitted any information responsive to the remaining requested information. To the extent information responsive to the remaining portion of the request exists and was maintained by the constable's office on the date it received the request, we assume the constable's office has released it to the requestor. If the constable's office has not released any such information, it must do so at this time. 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).

We note the submitted information is the subject of a previous request for information in response to which this office issued Open Records Letter No. 2015-01695 (2015). In Open Records Letter No. 2015-01695, we determined the constable's office failed to comply with section 552.301 and, thus, waived its argument under section 552.108 of the Government Code for the submitted information. Therefore, we ruled the present information must be released. The constable's office again raises section 552.108 of the Government Code for the information at issue. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See Gov't Code* § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the constable's office may not now withhold any previously released information unless its release is expressly prohibited by law or the information is confidential under law. Although the constable's office raises section 552.108, it is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). As such, this section does not prohibit the release of information or make information confidential. Thus, the constable's office may not withhold the previously released information under section 552.108. As we have no indication the law, facts, or circumstances on which the prior ruling was based have changed, the constable's office must continue to rely on Open Records Letter No. 2015-01695 as a previous determination and release the information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,

A handwritten signature in black ink, appearing to read "Mili Gosar". The signature is fluid and cursive, with the first name "Mili" and the last name "Gosar" clearly distinguishable.

Mili Gosar
Assistant Attorney General
Open Records Division

MG/akg

Ref: ID# 560832

Enc. Submitted documents

c: Requestor
(w/o enclosures)