



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 27, 2015

Ms. Kristen Lee
Assistant County Attorney
County of Harris
1019 Congress, 15th Floor
Houston, Texas 77002

OR2015-10256

Dear Ms. Lee:

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# 565066 (C.A. File No. 15PIA0109).

The Harris County Constable's Office, Precinct 5 (the "constable's office") received a request for information regarding a specified arrest. 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 provides in part the following:

Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Generally, section 552.108(a)(1) is mutually exclusive of section 552.108(a)(2). Section 552.108(a)(1) protects information that pertains to a pending

criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

You state the submitted information pertains to a criminal investigation that concluded in a result other than conviction or deferred adjudication. You explain that the case was dismissed with a notation that the case is subject to refile. However, you also state the submitted information pertains to “an officer involved in a criminal investigation where he investigated pending criminal litigation” and “will likely be called as a witness in this pending criminal litigation.” Because you have provided this office with conflicting arguments, we find you have not demonstrated the applicability of section 552.108 to the submitted information. Therefore, the constable’s office may not withhold any of the submitted information under section 552.108 of the Government Code. As you raise no other exceptions to disclosure, the constable’s office must release the submitted information.¹

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,



Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

¹We note some of the information being released contains information to which the requestor has a right of access. See Gov’t Code § 552.023(a) (person or person’s authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself).

Ref: ID# 565066

Enc. Submitted documents

c: Requestor
(w/o enclosures)