



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 11, 2015

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2015-11517

Dear Ms. Sheely:

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# 566787.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified arrest of a named individual. We understand you will redact information pursuant to section 552.130(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.1175 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[.]" unless the information is

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

²Although you also raise section 552.117 of the Government Code, we note section 552.1175 of the Government Code is the proper exception to raise for information not held by the sheriff's office in an employment context.

expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although the sheriff's office seeks to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *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's office may not withhold the court-filed document, which we have marked, under section 552.108. As you raise no further exceptions to disclosure for the court-filed document, the sheriff's office must release this document. However, we will address the sheriff's office's arguments against disclosure of the remaining information.

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(a)(1) 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). You state the remaining information relates to a pending prosecution. Based on your representation and our review, we find 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

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 information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, the address and social security number of an arrestee. *See* ORD 127. Accordingly, with the exception of basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, or social security number of an individual to whom this section applies, or information that reveals whether the individual has family members, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See*

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Gov't Code § 552.1175. Section 552.1175 applies to state judges, as defined by section 13.0021 of the Election Code. *Id.* § 552.1175(a)(10); *see also* Elec. Code § 13.0021(2)(A). Some of the basic information, which you marked, relates to an individual who is a district judge and the information is not held in an employment capacity. You state the district judge at issue has elected to restrict access to the information in accordance with section 552.1175(b). Accordingly, in releasing the basic information, the sheriff's office must withhold the information you marked under section 552.1175 of the Government Code.

In summary, the sheriff's office must release the information we have marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the basic information, the sheriff's office must withhold the information you marked under section 552.1175 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.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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 566787

Enc. Submitted documents

c: Requestor
(w/o enclosures)