



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 24, 2016

Sheriff Pamela L. Elliot
Edwards County Sheriff's Office
P.O. Box 156
Rocksprings, Texas 78880

OR2016-01416A

Dear Sheriff Elliot:

This office issued Open Records Letter No. 2016-001416 (2016) on January 20, 2016. Since that time, we have received new information that affects the facts on which this ruling was based. Consequently, this decision serves as the corrected ruling and is a substitute for the decision issued on January 20, 2016. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")). This ruling was assigned ID# 605941.

The Edwards County Sheriff's Office (the "sheriff's office") received a request for all information relating to a named individual, including all information relating to a specified charge against him. The sheriff's office states it has released some of the requested information. The sheriff's office claims the remaining requested information is excepted from disclosure under section 552.108 of the Government Code.¹ The sheriff's office also informs us it has notified the 452nd Judicial District Attorney's Office (the "district attorney's office") of its right to submit comments to this office as to why their information should not be released. *See id.* § 552.304 (interested party may submit written comments regarding availability of requested information). We have received comments from the district attorney's office. We have considered the submitted arguments and reviewed the submitted information.

¹We note the sheriff's office did not comply with section 552.301 of the Government Code in requesting this decision. *See* Gov't Code § 552.301(b), (e). Nonetheless, because the interests under section 552.108 of the Government Code of a governmental body other than the one that failed to comply with section 552.301 can provide a compelling reason for non-disclosure, we will consider the applicability of section 552.108 to the submitted information based on the interest of the district attorney's office. *See id.* §§ 552.007, .301, .302, .352; *see also* Open Records Decision No. 586 at 2-3 (1991).

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). The sheriff’s office states the submitted information relates to a pending criminal investigation. The district attorney’s office objects to the disclosure of the submitted information because its release will interfere with the investigation. Upon review, we conclude the release of the information at issue 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 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 information at issue.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which must be released, the sheriff’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.

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,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 605941

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Third Party
(w/o enclosures)