



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 5, 2016

Ms. Kristen N. Lee
Ms. Erin Vincent
Assistant County Attorneys
Harris County
1019 Congress Street, 15th Floor
Houston, Texas 77002

OR2016-10184

Dear Ms. Lee and Ms. Vincent:

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# 608741 (CA File Nos. 16PIA0074, 16PIA0075, 16PIA0076, 16PIA0079, 16PIA0081, 16PIA0083, and 16PIA0084).

The Harris County Sheriff's Office (the "sheriff's office") received several requests for information pertaining to specified arrests of a named individual, information regarding a specified murder investigation, the personnel files for three named deputies, information pertaining to a specified address during defined time periods, and certain policy. You claim the submitted information is excepted from disclosure under sections 552.107 and 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

We note some of the requestors have asked the sheriff's office to answer questions. The Act does not require a governmental body to answer factual questions, conduct legal research, or create new information in responding to a request. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, a governmental body must make a good faith effort to relate a request to information held by the governmental body. *See* Open Records

¹Although you initially raised sections 552.101, 552.102, 552.103, 552.117, and 552.1175 of the Government Code as exceptions to disclosure, you provided no arguments regarding the applicability of these sections. Accordingly, we assume you no longer assert these sections. *See* Gov't Code §§ 552.301, .302.

²We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

Decision No. 561 at 8 (1990). We assume the sheriff's office has made a good faith effort to do so.

Next, we note some of the responsive information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-24596 (2015). In that ruling, we determined, with the exception of basic information, the sheriff's office may withhold the information at issue under section 552.108(a)(1) of the Government Code on behalf of the Harris County District Attorney's Office (the "district attorney's office"). We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the responsive information is identical to the information previously requested and ruled upon by this office, we conclude the sheriff's office must rely on Open Records Letter No. 2015-24596 as a previous determination and withhold or release the identical information 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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the responsive information was not previously ruled on, we will address your submitted arguments.

Section 552.107(2) of the Government Code provides information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). The sheriff's office has submitted a copy of a Joint Motion for Protective Order that was issued by the District Court of the 208th Judicial District in Harris County. However, this protective order does not prohibit the sheriff's office from releasing any of the requested information to the requestors pursuant to the Act. Thus, we conclude the sheriff's office has not established a court has prohibited disclosure of any of the submitted information to the requestors. Therefore, we find the sheriff's office may not withhold any of the information at issue from the requestors under section 552.107(2) of the Government Code.

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[.]" *Id.* § 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). We note section 552.108 is generally not applicable to records that are purely administrative in nature and do 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. 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); *see also* Open Records Decision No. 350 at 3-4 (1982). However, you state the submitted

information relates to an open or pending criminal investigation. Further, you have provided an affidavit from the district attorney's office stating the information at issue relates to a pending criminal prosecution and public disclosure of this information would interfere with this pending prosecution. *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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable to the information at issue.

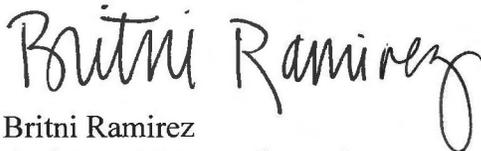
However, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127(1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which must be released, the sheriff's office may withhold the information at issue under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

In summary, to the extent the responsive information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2015-24596, we conclude the sheriff's office must rely on that ruling as a previous determination and withhold or release the identical information in accordance with that ruling. With the exception of basic information, which must be released, the sheriff's office may withhold the information at issue 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/dls

Ref: ID# 608741

Enc. Submitted documents

c: 14 Requestors
(w/o enclosures)