



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 27, 2016

Ms. Raethella Jones
Chief - Civil Division
County of Brazoria
111 East Locust, Suite 408A
Angleton, Texas 77515

OR2016-12123

Dear Ms. Jones:

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# 615110.

The Brazoria County Sheriff's Office (the "sheriff's office") received a request for information pertaining to two specified incidents. You state the sheriff's office has release some of the submitted information. You claim the remaining submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.*; *see also id.* § 552.301(e)(1)(A). You state the remaining submitted information pertains to concluded investigations that did not result in convictions or deferred adjudications. Based on your representations and our review, we find section 552.108(a)(2) is applicable to the remaining submitted information.

However, section 552.108(a)(2) of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559, 560-61 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Basic information includes, among other items, the identity of the complainant and a detailed description of the offense. We note some of the information you seek to withhold consists of the names of complainants and information consisting of detailed descriptions of the offenses. Accordingly, the sheriff's office may not withhold this information from disclosure under section 552.108(a)(2) of the Government Code. However, the sheriff's office may withhold the remaining information at issue, which we have marked, under section 552.108(a)(2) of the Government Code.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This exception encompasses the informer's privilege, which has long been recognized by Texas courts. *See Aguilar v. State*, 444 S.W.2d 935, 937 (Tex. Crim. App. 1969); *Hawthorne v. State*, 10 S.W.2d 724, 725 (Tex. Crim. App. 1928). The informer's privilege protects from disclosure the identities of persons who report activities over which the governmental body has criminal or quasi-criminal law-enforcement authority, provided the subject of the information does not already know the informer's identity. *See* Open Records Decision No. 208 at 1-2 (1978). You seek to withhold the names of the complainants in the remaining information. However, the submitted information reflects the subjects of the complaints know the identities of the complainants. Thus, the sheriff's office may not withhold the names of the complainants under section 552.101 in conjunction with the common-law informer's privilege.

In summary, the sheriff's office may withhold the information we have marked under section 552.108(a)(2) of the Government Code. The sheriff's office must release the remaining information.

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/>

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

[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 "Sean Nottingham". The signature is written in a cursive, somewhat stylized font.

Sean Nottingham
Assistant Attorney General
Open Records Division

SN/som

Ref: ID# 615110

Enc. Submitted documents

c: Requestor
(w/o enclosures)