



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2016

Mr. Pink Dickens
Assistant Criminal District Attorney
Victoria County District Attorney's Office
205 North Bridge, Suite 301
Victoria, Texas 77901-8085

OR2016-15721

Dear Mr. Dickens:

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# 619163.

The Victoria County Sheriff's Office (the "sheriff's office") received a request for all calls for service to a specified address during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note report number 14-05376 was the subject of a previous request for information from the same requestor, as a result of which this office issued Open Records Letter No. 2015-03434 (2015). In that ruling, we determined the sheriff's office may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with common-law privacy, and must release the information at issue. You now claim section 552.108 for the report at issue. Section 552.007 provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential by law. *See Gov't Code* § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law).

Accordingly, pursuant to section 552.007, the sheriff's office may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. You now seek to withhold the information that has been previously released under section 552.108 of the Government Code. Section 552.108 does not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). Accordingly, the sheriff's office may not withhold the information at issue under section 552.108 of the Government Code. Thus, we conclude the sheriff's office must rely on Open Records Letter No. 2015-03434 as a previous determination and release report number 14-05376 in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). However, we will consider the sheriff's office's argument against disclosure of the remaining information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information relates to closed cases that did not result in convictions or deferred adjudications. Based on your representation and our review, we agree section 552.108(a)(2) 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. *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 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.¹

In summary, the sheriff's office must rely on Open Records Letter No. 2015-03434 as a previous determination and release report number 14-05376 in accordance with that ruling.

¹As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

With the exception of the basic information, which must be released, the sheriff's office may withhold the remaining information under section 552.108(a)(2) 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,

A handwritten signature in black ink, appearing to read "Claire V. Morris Sloan", with a long horizontal flourish extending to the right.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/bw

Ref: ID# 619163

Enc. Submitted documents

c: Requestor
(w/o enclosures)