



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 1, 2015

Ms. Klea Harris
Custodian of Records
County of Kaufman
Kaufman County Sheriff's Office
1900 East US Highway 175
Kaufman, Texas 75142

OR2015-06147

Dear Ms. Harris:

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# 558244.

The Kaufman County Sheriff's Office (the "sheriff's office") received a request for five categories of information regarding any incident in which a law enforcement officer employed by the department discharged a firearm resulting in injury or death of a person during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.119 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state a portion of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2013-12378 (2013). In that ruling, we determined, with the exception of the basic information, the sheriff's office may withhold the information at issue under section 552.108(a)(2) of the Government Code. 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 information is identical to the information previously requested and ruled upon by this office, we conclude the sheriff's office may rely on Open Records Letter No. 2013-12378 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).

Section 552.108(a)(2) 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: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that 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 information at issue pertains to concluded criminal investigations by the sheriff’s office that did not result in a conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is applicable to the submitted information.

We note, 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* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, 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). As our ruling is dispositive, we need not address your remaining arguments against disclosure.

In summary, to the extent the information is identical to the information previously requested and ruled upon by this office, we conclude the sheriff’s office may rely on Open Records Letter No. 2013-12378 as a previous determination and withhold or release the identical information in accordance with that ruling. 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 blue ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping initial "M".

Megan G. Holloway
Assistant Attorney General
Open Records Division

MGH/cbz

Ref: ID# 558244

Enc. Submitted documents

c: Requestor
(w/o enclosures)