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ATTORNEY GENERAL OF TEXAS

April 7, 2015

Mr. Daniel W. Ray
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P.O. Box 1353
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OR2015-06561

Dear Mr. Ray:

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# 558949.

The Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received a request for five categories of information concerning all incidents in which a law enforcement officer employed by the sheriff's office discharged a firearm resulting in injury or death of a human being during a specified period of time. The sheriff's office states it has released some of the requested information. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code.¹ We have considered the exceptions the sheriff's office claims and reviewed the submitted information.

We note the information we have marked is not responsive to the instant request for information because it does not pertain to a law enforcement officer employed by the sheriff's office discharging a firearm resulting in injury or death of a human being. This

¹We note the sheriff's office did not raise section 552.101 of the Government Code until after the ten-business-day deadline had passed. *See* Gov't Code § 552.301(b). Nevertheless, because section 552.101 can provide a compelling reason to overcome the presumption of openness, we will consider the sheriff's office's claim under section 552.101 for the submitted information. *See id.* §§ 552.007, .302, .352.

ruling does not address the public availability of non-responsive information, and the sheriff's office is not required to release non-responsive information in response to this request.

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 information it has marked relates to ongoing criminal investigations. 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(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. 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 concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The sheriff's office states the remaining responsive information relates to concluded cases that did not result in convictions or deferred adjudication. Based on the sheriff's office's representation, we conclude section 552.108(a)(2) 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. *Id.* § 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). We note basic information includes, among other categories of information, the identification and description of the complainant and a detailed description of the offense.² *See* ORD 127 at 3-4. Thus, with the exception of basic information, the sheriff's office may withhold the information it has marked under

²We note basic information includes an arrestee's social security number. Section 552.147(b) of the Government Code authorizes a government body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).

section 552.108(a)(1) of the Government Code and the remaining responsive information under section 552.108(a)(2) of the Government Code.³

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# 558949

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³As our ruling is dispositive, we need not address the sheriff's office's remaining arguments, including its argument under section 552.103 of the Government Code, except to note that the basic information held to be public in *Houston Chronicle* is generally not excepted from disclosure under section 552.103. See Open Records Decision No. 597 (1991).