



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 11, 2015

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2015-09082

Dear Ms. Lentz:

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# 563159.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests from different requestors. The first requestor seeks information pertaining to a specified incident. The second requestor seeks all records relating to a named individual. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, 552.130, 552.147, and 552.152 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the submitted information contains fingerprints, the public availability of which is governed by sections 560.001, 560.002, and 560.003 of the Government Code. Section 560.003 of the Government Code provides, "[a] biometric identifier in the possession of a governmental body is exempt from disclosure under [the Act]." Gov't Code § 560.003; *see id.* § 560.001(1) ("biometric identifier" means retina or iris scan, fingerprint,

---

<sup>1</sup>We 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 those records contain substantially different types of information than that submitted to this office.

voiceprint, or record of hand or face geometry). Section 560.002 of the Government Code provides, however, “[a] governmental body that possesses a biometric identifier of an individual . . . may not sell, lease, or otherwise disclose the biometric identifier to another person unless . . . the individual consents to the disclosure[.]” *Id.* § 560.002(1)(A). In this instance, the second requestor is the authorized representative of the individual whose fingerprints are at issue. Thus, this requestor has a right of access to the fingerprints at issue under section 560.002(1)(A). The general exceptions found in the Act, such as section 552.108 of the Government Code, cannot impinge on a statutory right of access to information. *See* Open Records Decision Nos. 613 at 4 (1993), 451 at 4 (1986). Therefore, the sheriff’s office must release the fingerprints we have marked to the second requestor under section 560.002 of the Government Code.

Next, we note the submitted information includes court-filed documents subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the required public disclosure of “information that is also contained in a public court record” unless it is “made confidential under [the Act] or other law[.]” Gov’t Code § 552.022(a)(17). Although the sheriff’s office raises section 552.108 of the Government Code for the information at issue, this is a discretionary exception and does not make information confidential under the Act. *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 section 552.108 subject to waiver). As such, section 552.108 does not make information confidential for the purposes of section 552.022. Therefore, the information subject to section 552.022, which we have marked, may not be withheld under section 552.108 and must be released to the requestors.

Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov’t Code § 552.152. The sheriff’s office states the remaining information contains the identifying information of an undercover officer and release of this information would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 of the Government Code is applicable to this information. Accordingly, the sheriff’s office must withhold the identifying information of the undercover officer under section 552.152 of the Government Code.<sup>2</sup>

---

<sup>2</sup>As our ruling is dispositive, we need not address the sheriff’s office’s remaining argument against disclosure of this information.

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 government body claiming section 552.108 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 remaining information relates to an ongoing criminal investigation. Based on these representations and our review, we find the release of the remaining information 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 that are 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 remaining information.

Section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the sheriff’s office may withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>3</sup>

In summary, the sheriff’s office must release the fingerprints we have marked to the second requestor under section 560.002 of the Government Code. The sheriff’s office must release the information subject to section 552.022 of the Government Code, which we have marked, to both requestors. The sheriff’s office must withhold the identifying information of the undercover officer under section 552.152 of the Government Code. 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)(1) 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](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

---

<sup>3</sup>As our ruling is dispositive, we need not address the sheriff’s office’s remaining arguments against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/dls

Ref: ID# 563159

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)