



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 18, 2017

Mr. Robert J. Davis  
Counsel for the Collin County Sheriff's Office  
Matthews, Shiels, Knott, Eden, Davis & Beanland, L.L.P.  
8131 LBJ Freeway, Suite 700  
Dallas, Texas 75251

OR2017-01135

Dear Mr. Davis:

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# 641856 (File No. 1600/67375).

The Collin County Sheriff's Office (the "sheriff's office"), which you represent, received a request for: (1) information pertaining to a specified complaint, (2) information pertaining to a named deputy, and (3) a copy of the employee code of conduct or employee handbook for deputies. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state some of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2016-19890 (2016). In that ruling, we determined that: (1) pursuant to section 1701.661 of the Occupations Code, our ruling did not reach the submitted body worn camera recordings and the sheriff's office is not required to release them; (2) the sheriff's office must release the court-filed documents we marked pursuant to section 552.022(a)(17) of the Government Code; and (3) with the exception of basic information, which must be released, the sheriff's office may withhold the remaining responsive information under section 552.108(a)(1) 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 requested information is identical to the information at issue in that ruling, we conclude the sheriff's office must rely on Open Records Letter No. 2016-19890 as a previous

determination and withhold or release such information in accordance with that ruling.<sup>1</sup> *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). To the extent the requested information is not encompassed by the prior ruling, we will consider your arguments against disclosure.

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 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). We note section 552.108 is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App. —El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, you represent the submitted information pertains to an active criminal prosecution. Based on your representation, 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 that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, we conclude section 552.108(a)(1) is applicable to the submitted information.

However, we note 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing 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 submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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<sup>1</sup> As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

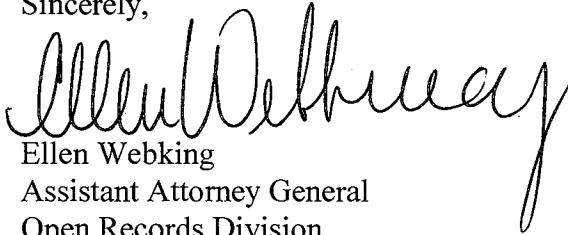
<sup>2</sup>As our ruling is dispositive, we do not address the sheriff’s office’s other arguments to withhold the information.

In summary, to the extent the requested information is identical to the information at issue in Open Records Letter No. 2016-19890, we conclude the sheriff's office must continue to rely on that ruling a previous determination and withhold or release such information in accordance with that ruling. With the exception of the basic information, which must be released, the sheriff's office may withhold the information at issue 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking  
Assistant Attorney General  
Open Records Division

EW/bw

Ref: ID# 641856

Enc. Submitted documents

c: Requestor  
(w/o enclosures)