



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 24, 2017

Ms. Elisha Bird
Assistant District Attorney
35th Judicial District Attorney's Office
200 South Broadway
Brownwood, Texas 76801

OR2017-04085

Dear Ms. Bird:

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# 646994.

The Brown County Sheriff's Office (the "sheriff's office") received a request for a specified police report. You state you have released some information. We understand you will redact social security numbers under section 552.147(b) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You assert some 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. 2016-18058 (2016). Upon review, however, we note Open Records Letter No. 2016-18058 was issued to the 35th Judicial District Attorney's Office. The present request for information was addressed to the sheriff's office. Accordingly, the sheriff's office may not rely on Open Records Letter No. 2016-18058 as a previous determination in this instance. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

ruling was based have not changed, first type of previous determination exists where requested information is precisely the same information as was addressed in a 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 note some of the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter No. 2016-18059 (2016) to the sheriff's office. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the sheriff's office must rely on Open Records Letter No. 2016-18059 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling.² *See id.* However, we will consider your arguments for the submitted information not subject to the previous ruling.

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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information relates to a pending criminal investigation or prosecution. Based upon your representation, we conclude release of the information will 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). Accordingly, we find the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.³

In summary, the sheriff's office must rely on Open Records Letter No. 2016-18059 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. The sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

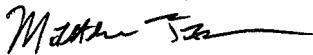
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

²As we are able to make this determination, we need not address the remaining arguments against disclosure of this information.

³As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

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,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/bw

Ref: ID# 646994

Enc. Submitted documents

c: Requestor
(w/o enclosures)