



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 27, 2017

Ms. Natalie Barnett
Assistant County Attorney
Parker County
118 West Columbia Street
Weatherford, Texas 76086

Deputy Danie Huffman
Parker County Sheriff's Office
129 Hogle Street
Weatherford, Texas 76086

OR2017-14245

Dear Ms. Barnett and Deputy Huffman:

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# 663591.

The Parker County Sheriff's Office (the "sheriff's office") received two requests from different requestors for information pertaining to a specified arrest: the first on April 3, 2017 (the "first requestor"), and the second on April 17, 2017 (the "second requestor"). The sheriff's office states it has released some of the requested information. The sheriff's office claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

We note the sheriff's office informs us it released some of the submitted information to the second requestor, but seeks to withhold this information from the first requestor under section 552.108. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law. *See* Gov't Code 552.007; Open Records Decision Nos. 518 at 3 (1989), 400 at 2 (1983). Section 552.108 is a discretionary exception to disclosure that

protects a governmental body's interests. *See* Open Records Decision Nos. 665 at 5 (2000) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not expressly prohibit the release of the submitted information or make the information confidential. Accordingly, the sheriff's office may not withhold from the first requestor the information that it previously released to the second under section 552.108. Instead, it must provide the previously-released information to the first requestor.

Section 552.108(a) 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: (1) 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 information at issue 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, 710 (Tex. 1977). The sheriff's office states the information it has marked under section 552.108(a)(1) relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release of this 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the sheriff's office must release, the sheriff's office may withhold the information it has marked under section 552.108(a)(1) of the Government Code.¹ The sheriff's office must release the remaining information.

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

¹As our ruling is dispositive, we do not address the other arguments of the sheriff's office to withhold this information.

Dear Ms. Barnett and Deputy Huffman - Page 3

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

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bw

Ref: ID# 663591

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)