



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

June 30, 2017

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

OR2017-14741

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# 664364.

The Williamson County Sheriff's Office (the "sheriff's office") received two requests from the same requestor for information pertaining to a specified case. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.130, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample information.<sup>1</sup>

Initially, we note the submitted information contains biometric identifiers, 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, 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.*

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<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 that those records contain substantially different types of information than that submitted to this office.

§ 560.002(1)(A). In this instance, the requestor is the individual whose biometric identifiers are at issue. Thus, the requestor has a right of access to his biometric identifiers 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) (exceptions in Act cannot impinge on statutory right of access to information), 451 at 4 (1986) (specific statutory right of access provisions overcome general exception to disclosure under the Act). Therefore, the sheriff's office must release the requestor's biometric identifiers, which we marked, to him pursuant to section 560.002 of the Government Code.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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 has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the remaining information pertains to a criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the remaining information.

However, 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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other items, the identities of the arresting and investigating officers. *See* ORD 127. Accordingly, with the exception of basic information, which must be released, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.<sup>2</sup>

You seek to withhold the identifying information of an undercover deputy within the basic information under section 552.152 of the Government Code. Section 552.152 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.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Gov't Code § 552.152. You represent the release of the undercover deputy's identity would subject the deputy to a substantial threat of physical harm. Based on your representation and our review, we conclude you demonstrated release of the information at issue would subject the deputy to a substantial threat of physical harm. Therefore, in releasing the basic information, the sheriff's office must withhold the information you marked under section 552.152 of the Government Code.

In summary, the sheriff's office must release the requestor's biometric identifiers to him pursuant to section 560.002 of the Government Code. With the exception of basic information, which must be released, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code. In releasing the basic information, the sheriff's office must withhold the identifying information of an undercover deputy you marked under section 552.152 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,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/tdw

Ref: ID# 664364

Enc. Submitted documents

c: Requestor  
(w/o enclosures)