



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 5, 2017

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

OR2017-14924

Dear Ms. Lenz:

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# 664794.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for a specified case number. The sheriff's office claims the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.152 of the Government Code. We have considered the exceptions the sheriff's office claims and reviewed the submitted 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). Generally, 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, 710 (Tex. 1977). The sheriff's office states the submitted information relates to a pending criminal prosecution. Based upon this representation, we conclude the release of the submitted 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e.*

per curiam, 536 S.W.2d 559, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, section 552.108(a)(1) 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 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes the names of the investigating officers, but does not include dates of birth or motor vehicle record information. See ORD 127. Accordingly, with the exception of basic information, the sheriff's office may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

However, we note the requestor is a representative of the Office of the Federal Public Defender, Western District of Texas (the "public defender's office"). Section 411.1272 of the Government Code provides:

The office of capital and forensic writs and a public defender's office are entitled to obtain from the [Texas Department of Public Safety ("DPS")] criminal history record information [{"CHRI"}] maintained by the [DPS] that relates to a criminal case in which an attorney compensated . . . by the public defender's office has been appointed.

Gov't Code § 411.1272. In addition, section 411.087(a) of the Government Code provides:

(a) Unless otherwise authorized by Subsection (e), a person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [DPS CHRI] maintained by the [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Id. § 411.087(a)(2). CHRI is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." See *id.* § 411.082(2). Thus, the information at issue contains CHRI.

¹As our ruling is dispositive, we need not address the sheriff's office's remaining arguments against disclosure.

Accordingly, the requestor is authorized to obtain the CHRI at issue from the sheriff's office pursuant to sections 411.087(a)(2) and 411.1272 of the Government Code if it relates to a criminal case in which an attorney compensated by the public defender's office is appointed. *See id.* §§ 411.1272, .087(a)(2). Although the sheriff's office raises section 552.108 of the Government Code for such information, a specific statutory right of access prevails over the general exceptions to disclosure found in the Act. *See* Open Records Decision Nos. 623 at 3 (1994) (exceptions in the Act generally inapplicable to information that statutes expressly make public), 613 at 4 (1993) (exceptions in Act cannot impinge in statutory right of access to information), 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Therefore, if the sheriff's office determines the information at issue relates to a criminal case in which an attorney compensated by the public defender's office is appointed, then the sheriff's office must release the information that shows the type of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. In that instance, with the exception of 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. If the sheriff's office determines the information at issue does not relate to a criminal case in which an attorney compensated by the public defender's office is appointed, then with the exception of 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.

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 represents the release of the undercover officer's identity would subject the officer to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identity of the undercover officer within the information at issue. Accordingly, the sheriff's office must withhold the information it has marked under section 552.152 of the Government Code.

In summary, if the sheriff's office determines the information at issue relates to a criminal case in which an attorney compensated by the public defender's office is appointed, then the sheriff's office must release the information that shows the type of allegations made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. In that instance, with the exception of 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. If the sheriff's office determines the information at issue does not relate to a criminal case in which an attorney compensated by

the public defender's office is appointed, then with the exception of 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. In either instance, in releasing basic information, the sheriff's office must withhold the information it has 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, 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/tdw

Ref: ID# 664794

Enc. Submitted documents

c: Requestor
(w/o enclosures)