



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 16, 2017

Mr. Robert S. Davis
Counsel for the County of Franklin
Flowers Davis, P.L.L.C.
1021 ESE Loop 323, Suite 200
Tyler, Texas 75701

OR2017-26265

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# 685732.

Franklin County (the "county"), which you represent, received a request for offense reports in which the requestor's client is a victim and a named individual is a suspect; complaints filed against county employees; hiring procedures and manuals; documentation of the inmate's complaint process; jail staffing records for a specified time period, including name, gender, age, experience, work schedules, and complaints or investigations; and a list of jail supervisors for a specified time period, including name, gender, age, rank, experience, work schedules, and complaints or investigations. The county states it does not maintain information responsive to a portion of the request.¹ The county claims the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.117, 552.130, and 552.137 of the Government Code. We have considered the

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

exceptions the county claims and reviewed the submitted representative sample of information.²

Initially, we note the requestor excludes peace officers' Texas Commission on Law Enforcement identification numbers from the scope of the request. Accordingly, this type of information is not responsive to the request for information. *See also* Open Records Decision No. 581 (1990). This ruling does not address the public availability of any information that is not responsive to the request and the county is not required to release that information in response to the request.

Next, the county states the requested information "is the same as" information that was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2017-07535A (2017). In that ruling, we determined with the exception of the marked court-filed document subject to section 552.022(a)(17) of the Government Code and the basic information, the county may withhold the submitted information under section 552.108(a)(1) of the Government Code; however, in releasing the information subject to section 552.022(a)(17), the county must withhold the information we marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code and the fingerprint we marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The county indicates there has been no 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 previously requested and ruled upon by this office, we conclude the county may rely on Open Records Letter No. 2017-07535A as a previous determination and withhold or release the identical information in accordance with that ruling. *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). However, to the extent the submitted information was not previously requested and ruled upon by this office, we will consider the county's arguments against its 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte*

²We 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 those records contain substantially different types of information than that submitted to this office.

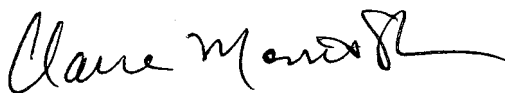
Pruitt, 551 S.W.2d 706 (Tex. 1977). The county states, and provides documentation from the Franklin County Attorney's Office demonstrating, the submitted information relates to a pending criminal investigation or prosecution and release of the information would undermine the integrity of the criminal prosecution. Based on these representations, 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 county may withhold any remaining portion of the submitted information under section 552.108(a)(1) of the Government Code.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, we conclude the county may rely on Open Records Letter No. 2017-07535A as a previous determination and withhold or release the identical information in accordance with that ruling. The county may withhold any remaining portion of the submitted information under section 552.108(a)(1) of the Government Code.³

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

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

Ref: ID# 685732

Enc. Submitted documents

c: Requestor
(w/o enclosures)