



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

September 11, 2019

Mr. Thomas Gilliland  
Public Information Officer  
Harris County Sheriff's Office  
1200 Baker Street, 2<sup>nd</sup> Floor  
Houston, Texas 77002

OR2019-25487

Dear Mr. Gilliland:

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# 784842 (HSCO File No. #19SO8001969).

The Harris County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office does not have some of the requested information and that some of the requested information does not exist.<sup>1</sup> You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, we note some of the submitted information was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2008-02081 (2008). In that ruling, we held that (1) to the extent the sheriff's office holds the requested

---

<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>We assume that 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.

information as an agent of a grand jury, the requested information is not subject to the Act and (2) to the extent the sheriff's office holds the information in its own capacity, with the exception of basic information and court-filed documents subject to section 552.022(a)(17) of the Government Code, the sheriff's office may withhold the requested information under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, to the extent the submitted information was previously ruled upon in Open Records Letter No. 2008-02081, the sheriff's office may continue to rely on Open Records Letter No. 2008-02081 as a previous determination and withhold or release the information at issue in accordance with that ruling.<sup>3</sup> 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 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 will consider your arguments for the submitted information not subject to the previous ruling.

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). 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 (Tex. 1977). You represent the submitted information relates to an ongoing criminal prosecution, and release of that information would interfere with the investigation and prosecution of the case. 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 (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). Thus, section 552.108(a)(1) applies to the submitted information. Accordingly, to the extent the submitted information was not previously ruled upon in Open Records Letter No. 2008-02081, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, to the extent the submitted information was previously ruled upon in Open Records Letter No. 2008-02081, the sheriff's office may continue to rely on Open Records Letter No. 2008-02081 as a previous determination and withhold or release the information at issue in accordance with that ruling. To the extent the submitted information was not previously ruled upon, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.

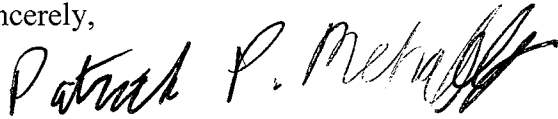
---

<sup>3</sup>As we are able to make this determination, we need not address your argument against the disclosure of this 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Patrick P. Mehaffy  
Assistant Attorney General  
Open Records Division

PPM/mo

Ref: ID# 784842

Enc. Submitted documents

c: Requestor  
(w/o enclosures)