



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2020

Mr. Daniel W. Ray
Counsel for Hunt County
Scott, Ray, & Sullivan, P.L.L.C.
P.O. Box 1353
Greenville, Texas 75403

OR2020-02788

Dear Mr. Ray:

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# 810735.

The Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received two requests from two requestors for information related to incidents occurring at a specified address. We understand the sheriff's office has released some information. You inform us that the sheriff's office does not maintain information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the information related to case number 1925803 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2020-02445 (2020). In that ruling, we determined: (1) with the exception of the information subject to section 552.022(a)(17) of the Government Code and 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, and (2) in releasing the information subject to section 552.022(a)(17), the sheriff's office must withhold the motor

¹ The 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).

vehicle record information we marked under section 552.130 of the Government Code. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Therefore, the sheriff's office must continue to rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the information at issue in accordance with that ruling.² *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).

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. *See* 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the remaining information relates to a closed criminal investigation that did not result in conviction or deferred adjudication. Based on this representation and our review, 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. *Id.* § 552.108(c). Basic information refers to the 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). Thus, with the exception of the 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.³

In summary, the sheriff's office must continue to rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the information related to case number 1925803 in accordance with that ruling. With the exception of the 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.

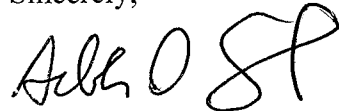
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

² As we are able to make this determination, we need not address your arguments against disclosure of this information.

³ As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

A handwritten signature in black ink, appearing to read "Deborah Southerland". The signature is stylized and cursive.

Deborah Southerland
Assistant Attorney General
Open Records Division

DS/be

Ref: ID# 810735

Enc. Submitted documents

c: 2 Requesters
(w/o enclosures)