



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 4, 2020

Mr. Thomas M. Gilliland
Public Information Officer
Harris County Sheriffs Office
1200 Baker Street, 2nd Floor
Houston, Texas 77002-1206

OR2020-03312

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# 809841 (ORR# 19SP9002234).

The Harris County Sheriff's Office (the "sheriff's office") received a request for all reports related to the requestor's client. The sheriff's office states it is releasing some of the requested information. The sheriff's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception the sheriff's office claims and reviewed the submitted information.

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). The sheriff's office states the submitted 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 submitted 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, the sheriff's office may generally withhold the submitted information under section 552.108(a)(2) of the Government Code.

However, we note the requestor is a representative of the Office of the Federal Public Defender of the Southern 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).

Accordingly, the requestor is authorized to obtain the CHRI in the information 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.* §§ 411.087(a)(2), .1272. Although the sheriff’s office raises section 552.108 of the Government Code for this information, we note a statutory right of access generally prevails over the Act’s general exceptions to disclosure. *See Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989), 451 at 4 (1986)* (specific statutory right of access provisions overcome general exception 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. Conversely, 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, the sheriff’s office need not release the CHRI.


In summary, with the exception of the basic information, which must be released, the sheriff’s office may generally withhold the submitted information under section 552.108(a)(2) of the Government Code; however, if the sheriff’s office determines the submitted information relates to a criminal case in which an attorney compensated by the

public defender's office is appointed, then the sheriff's office must also release the CHRI pertaining to the requestor's client.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/gw

Ref: ID# 809841

Enc. Submitted documents

c: Requestor
(w/o enclosures)