



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 7, 2020

Ms. Mary E. Miller
Assistant District Attorney
Denton County
127 North Woodrow Lane, Suite 300
Denton, Texas 76205

OR2020-03749

Dear Ms. Miller:

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# 816965 (ORR# S003001-010220).

The Denton County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a named individual. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You state the submitted information relates to closed cases that did not result in convictions or deferred adjudications. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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). We note basic information includes, among other things, a detailed description of the offense and an identification and description of the complainant, but does not include dates of birth, motor vehicle record information encompassed by section 552.130 of the Government Code, or the complainant's telephone number or home address, unless the address is the location of the crime. *See* ORD 127 at 3-4. In this instance, you have marked the entire narrative portion of the incident reports at issue as information you seek to withhold under section 552.108. Accordingly, we determine the sheriff's office must release a sufficient portion of the narrative to encompass a detailed description of the offense. Thus, with the exception of the basic information, which must be released, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code.¹

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You seek to withhold some of the basic information under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Section 552.101 also encompasses chapter 772 of the Health and Safety Code, which authorizes the development of local emergency communication districts. Section 772.318 of the Health and Safety Code applies to an emergency communication district for a county with a population of more than 20,000 and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You indicate the sheriff's office is part of an emergency communication district that is subject to section 772.318. We note some of the information at issue consists of the originating telephone numbers and addresses of 9-1-1 callers furnished to the sheriff's office by a service supplier. Thus, the sheriff's office must withhold the originating addresses of 9-1-1 callers you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. However, we note section 772.318 does not apply to 9-1-1 callers' names. Thus, the sheriff's office may not withhold the 9-1-1 callers' names you marked under section 552.101 of the Government Code on this basis.

You argue some of the remaining basic information is protected under section 552.101 of the Government Code in conjunction with common-law privacy, which is subject to the two-part test discussed above. *Indus. Found.*, 540 S.W.2d at 685. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information you marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the sheriff's office must withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

¹ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

In summary, with the exception of the basic information, the sheriff's office may withhold the information you marked under section 552.108(a)(2) of the Government Code. In releasing the basic information, the sheriff's office must withhold (1) the originating addresses of 9-1-1 callers you marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code and (2) the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/gw

Ref: ID# 816965

Enc. Submitted documents

c: Requestor
(w/o enclosures)