



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 18, 2020

Mr. Thomas Gilliland
Public Information Office
Harris County Sheriff's Office
1200 Baker Street, 2nd Floor
Houston, Texas 77002-1206

OR2020-04955

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# 812101 (Ref. No. 19S06001942).

The Harris County Sheriff's Office (the "sheriff's office") received a request for the following categories of information: (1) all complaints made against the sheriff's office involving four specified types of allegations during a stated period of time; (2) specified sheriff's office policies and procedures; (3) personnel information pertaining to a named sheriff's deputy, including all complaints against the named individual; and (4) video footage pertaining to a specified incident. You state the sheriff's office will release the requested policies and procedures to the requestor. You claim the submitted information is exempted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note the requestor is seeking, in part, all complaints made against the sheriff's office involving excessive force, police brutality, failure to provide medical aid to detained persons and inmates, and police misconduct during a stated period of time. Although you have submitted the requested complaints against the officer named in the request, we find, in this instance, this information is not representative of the categories of information noted above. Additionally, you do not inform us the sheriff's office has released this information. Therefore, although you state the sheriff's office has submitted a representative sample of the requested information, we find the submitted information is not representative of all the types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information the sheriff's office has submitted for our review. This ruling does not authorize the sheriff's office to withhold

any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any information responsive to the portions of the request noted above existed on the date the sheriff's office received the request, we assume the sheriff's office has released it to the requestor. If the sheriff's office has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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). 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). We note section 552.108 is generally not applicable to purely administrative records that do not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.) (section 552.108 generally not applicable to law enforcement agency's personnel records); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, in this instance, you represent the submitted information pertains to ongoing criminal investigations in which the named officer is the suspect. Further, you state the information at issue has been referred to the Harris County District Attorney's Office for review. You assert release of the information at issue “would interfere with the criminal investigation and prosecution of these cases.” Based on your representations and our review, we conclude the release of the information at issue 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). Accordingly, the sheriff's office may withhold the submitted information under section 552.108(a)(1) 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.

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

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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 'Blake Brennan', written in a cursive style.

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/mo

Ref: ID# 812101

Enc. Submitted documents

c: Requestor
(w/o enclosures)