



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

February 24, 2020

Mr. Robert S. Davis  
Counsel for Hunt County  
Flowers & Davis P.L.L.C  
1021 ESE Loop 323, Suite 200  
Tyler, Texas 75701

OR2020-05826

Dear Mr. Davis:

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# 813020.

Hunt County Sheriff's Office (the "sheriff's office"), which you represent, received two requests from the same requestor for information pertaining to a specified incident. You claim the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim.

Initially, we note some of the requested information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-02445 (2020). In Open Records Letter No. 2020-02445, we determined, 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. In releasing the information subject to section 552.022(a)(17) of the Government Code, the sheriff's office must withhold the motor vehicle record information we marked under section 552.130 of Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent some of the requested information is identical to the information previously requested and ruled upon by this office, the sheriff's office may rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the identical information in accordance with that ruling. 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).

Next, we must address the sheriff's office's obligations under section 552.301 of the Government Code when requesting a decision from this office under the Act. Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *See Gov't Code. § 552.301(e)*. You state the sheriff's office received the requests on November 26, 2019, and January 9, 2020. As of the date of this letter, you have not submitted a copy or representative sample of the information requested. Consequently, we find the sheriff's office failed to comply with the requirements of section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id. § 552.302; Simmons v. Kuzmich*, 166 S.W.3d 342, 350 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381 (Tex. App.—Austin 1990, no writ). Although you raise exceptions to disclosure, because the sheriff's office has not submitted the requested information for our review, we have no basis for finding any of the information excepted from disclosure. Thus, we have no choice but to order the requested information released pursuant to section 552.302.

In summary, to the extent the requested information is identical to the information previously requested and ruled upon, the sheriff's office must continue to rely on Open Records Letter No. 2020-02445 as a previous determination and withhold or release the identical information at issue in accordance with that ruling. To the extent the remaining requested information was not previously ruled on, the sheriff's office must release it pursuant to section 552.302 of the Government Code. If you believe the information may not lawfully be released, you must challenge this ruling in court pursuant to section 552.324 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

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 that reads "Pearlie Gault". The signature is written in a cursive style with a long horizontal flourish at the end.

Pearlie Gault  
Attorney  
Open Records Division

PG/eb

Ref: ID# 813020

c: Requestor