



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 17, 2020

Ms. Deanne Lin
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2020-08398

Dear Ms. Lin:

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# 816806 (ORR# 20PIA0003).

The Office of the Harris County Constable, Precinct 4 (the "constable's office") received a request for information pertaining to a specified arrest. The constable's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why the release of the information at issue 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, 710 (Tex. 1977). The constable's office states the submitted information relates to a pending criminal investigation. However, the information pertains to an alleged violation of section 481.120(b)(1) of the Health and Safety Code, which is a Class B misdemeanor. The statute of limitations for a misdemeanor is two years from the date of the offense. *See* Crim. Proc. Code art. 12.02(a) (statute of limitations for Class A, B, or C misdemeanor is two years from date of commission of offense). More than two years have elapsed since the underlying incident for the alleged offense occurred. The constable's office does not inform us any criminal

charges were filed within the limitations period for this case. Thus, we find the constable's office has failed to demonstrate release of this information would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the constable's office may not withhold the submitted information under section 552.108(a)(1) of the Government Code. Therefore, the constable's office must release the submitted information.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/rm

Ref: ID# 816806

Enc. Submitted documents

c: Requestor
(w/o enclosures)