



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 20, 2020

Ms. Audrea Hutson  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2020-20985

Dear Ms. Hutson:

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# 842073.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for records related to a specified arrest of a named individual. The sheriff's office claims 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 the sheriff's office claims and reviewed the submitted information.

Initially, we note the submitted information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,]" unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The sheriff's office seeks to withhold the information at issue under section 552.108 of the Government Code. However, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the sheriff's office may not withhold the court-filed document, which we marked, under section 552.108. However, because section 552.101 of the Government Code makes information confidential for purposes of section 552.022, we will address the sheriff's office's argument under this exception against release of the court-filed document subject to section 552.022(a)(17). Further, we will address the sheriff's office's arguments against disclosure of the remaining information.

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. The sheriff’s office asserts the submitted information is confidential under article 15.26 of the Code of Criminal Procedure, which is applicable to arrest warrants and affidavits for arrest warrants. Article 15.26 requires a magistrate’s clerk to make a copy of the arrest warrant affidavit available for public inspection or to provide a copy on payment of the cost of providing a copy. However, article 15.26 of the Code of Criminal Procedure does not make information confidential for the purposes of section 552.101 of the Government Code. *See* Open Records Decision Nos. 658 at 4 (1998) (statutory confidentiality provision must be express, and confidentiality requirement will not be implied from statutory structure), 478 at 2 (1987) (statutory confidentiality requires express language making certain information confidential or stating that information shall not be released to public); *see also* Open Records Decision No. 525 at 4 (1989) (information cannot be withheld from public disclosure by negative implication simply because a statute designates other specific information as public information). Therefore, the sheriff’s office may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with article 15.26 of the Code of Criminal Procedure.

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). A governmental body claiming section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The sheriff’s office states the submitted information relates to a pending criminal investigation or prosecution. Based on this representation, we conclude release of the remaining information will 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, we find the sheriff’s office may withhold the information not subject to section 552.022(a)(17) of the Government Code under section 552.108(a)(1) of the Government Code.<sup>1</sup> The sheriff’s office must release the marked court-filed document pursuant to section 552.022(a)(17) 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

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<sup>1</sup> As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

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/jm

Ref: ID# 842073

Enc. Submitted documents

c: Requestor  
(w/o enclosures)