



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 2, 2020

Mr. Uriel Tuck  
Assistant District Attorney  
Harris County District Attorney's Office  
500 Jefferson, Suite 600  
Houston, Texas 77002-1901

OR2020-29963

Dear Mr. Tuck:

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# 855245 (HCDA PIA# 2020.05-0010.a and 2020.05-0010.b).

The Harris County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified incident involving two named officers and an investigation involving a named officer, including information pertaining to two specified cause numbers. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the submitted information includes peace officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. Section 552.002(a) of the Government Code defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:

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<sup>1</sup> We assume the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

(A) owns the information;

(B) has a right of access to the information; or

(C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or

(3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand the submitted TCOLE identification numbers are unique computer-generated numbers assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Therefore, we find the submitted TCOLE numbers do not constitute public information under section 552.002 of the Government Code. Accordingly, the submitted TCOLE numbers are not subject to the Act and the district attorney's office need not release this information to the requestor.<sup>2</sup>

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[.]” *Id.* § 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). 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.); *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). The district attorney's office states the remaining information relates to pending criminal investigations. Based on this representation, we conclude release of the information at issue 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

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<sup>2</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *See* Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the district attorney’s office may generally withhold the remaining information under section 552.108(a)(1) of the Government Code.<sup>3</sup>

However, we note the requestor is a representative of the Harris County Public Defender’s Office (the “public defender’s office”). Section 411.1272 of the Government Code provides:

The Office of Capital and Forensic Writs and a public defender’s office are entitled to obtain from the [Texas Department of Public Safety (“DPS”)] criminal history record information [(“CHRI”) maintained by the [DPS] that relates to a criminal case in which an attorney compensated . . . by the public defender’s office has been appointed.

Gov’t Code § 411.1272. In addition, section 411.087 of the Government Code provides, in part, as follows:

(a) Unless otherwise authorized by Subsection (e), a person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from the [DPS CHRI] maintained by the [DPS] that relates to another person is authorized to:

. . .

(2) obtain from any other criminal justice agency in this state CHRI maintained by that criminal justice agency that relates to that person.

*Id.* § 411.087(a)(2). CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” *See id.* § 411.082(2). Thus, the requestor is authorized to obtain the CHRI in the information at issue from the district attorney’s office pursuant to sections 411.087(a)(2) and 411.1272 of the Government Code if it relates to a criminal case in which an attorney compensated by the public defender’s office is appointed. *See id.* §§ 411.087(a)(2), .1272. Although you raise section 552.108 of the Government Code for this information, we note a statutory right of access generally prevails over the Act’s general exceptions to disclosure. *See* Open Records Decision Nos. 623 at 3 (1994), 525 at 3 (1989), 451 at 4 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). Accordingly, if the district attorney’s office determines the information at issue relates to a

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<sup>3</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

criminal case in which an attorney compensated by the public defender's office is appointed, then the district attorney's office must release the CHRI. Conversely, if the district attorney's office determines the information at issue does not relate to a criminal case in which an attorney compensated by the public defender's office is appointed, then the district attorney's office need not release the CHRI to the requestor.

In summary, the submitted TCOLE identification numbers are not subject to the Act and the district attorney's office need not release this information to the requestor. If the district attorney's office determines the information at issue relates to a criminal case in which an attorney compensated by the public defender's office is appointed, then the district attorney's office: (1) must release the CHRI to this requestor, and (2) except for the basic information, which must be released, may withhold the remaining information under section 552.108(a)(1) of the Government Code. If the district attorney's office determines the information at issue does not relate to a criminal case in which an attorney compensated by the public defender's office is appointed, then, with the exception of the basic information, which must be released, the district attorney's office may withhold the remaining 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 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,

Katie Stallcup  
Assistant Attorney General  
Open Records Division

AKS/jxd

Ref: ID# 855245

c: Requestor