



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 14, 2022

Ms. Amy Bass-Domel
Open Records
Williamson County Sheriff's Office
508 South Rock Street
Georgetown, Texas 78626

OR2022-01344

Dear Ms. Bass-Domel:

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# 925539.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for all records regarding a named individual. You state the sheriff's office will withhold dates of birth pursuant to the previous determination issued in Open Records Letter No. 2016-21706 (2016).¹ You claim some of the submitted information was not properly requested pursuant to chapter 1701 of the Occupations Code. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.130, and 552.147 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 552.108(a)(1). A governmental body

¹ Open Records Letter No. 2016-21706 is a previous determination issued to the sheriff's office authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

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). You state case number 2021-10-00806 relates to an ongoing criminal investigation. Based upon this representation, 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). Thus, section 552.108(a)(1) is applicable to case number 2021-10-00806.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. *See Gov't Code* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). You assert case numbers 2021-06-00756, 2021-08-00846, and 2021-09-00055 relate to criminal investigations that concluded in results other than convictions or deferred adjudications. Based upon your representation, we conclude section 552.108(a)(2) is applicable to case numbers 2021-06-00756, 2021-08-00846, and 2021-09-00055.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *See id.* § 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). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code or criminal history record information made confidential by section 411.083 of the Government Code. *See* ORD 127 at 3-4. Accordingly, with the exception of basic information, the sheriff’s office may withhold case number 2021-10-00806 under section 552.108(a)(1) of the Government Code and case numbers 2021-06-00756, 2021-08-00846, and 2021-09-00055 under section 552.108(a)(2) of the Government Code.²

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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of

² As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information or the applicability of section 1701.661(a) of the Occupations Code to the submitted video recordings. *See generally* *Occ. Code* § 1701.661(a), (e).

common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find some of the basic information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find no portion of the remaining information at issue is highly intimate or embarrassing and of no legitimate public interest. Therefore, none of the remaining information at issue may be withheld under section 552.101 in conjunction with common-law privacy.

In summary, with the exception of basic information, which must be released, the sheriff's office may withhold case number 2021-10-00806 under section 552.108(a)(1) of the Government Code and case numbers 2021-06-00756, 2021-08-00846, and 2021-09-00055 under section 552.108(a)(2) of the Government Code. In releasing the basic information, the sheriff's office must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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 M. Graham
Assistant Attorney General
Open Records Division

JMG/eb

Ref: ID# 925539

Enc. Submitted documents

c: Requestor
(w/o enclosures)