



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 16, 2022

Mr. Matthew Entsminger
Assistant County Attorney
Travis County
P.O. Box 1748
Austin, Texas 78767

OR2022-04745

Dear Mr. Entsminger:

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# 932680.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the deaths of two named individuals. The sheriff'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.

Initially, we note the submitted information was the subject of previous requests for information, in response to which this office issued Open Records Letter No. 2021-13317 (2021) and 2021-17084 (2021). In Open Records Letter No. 2021-13317, we determined the sheriff's office must release basic information, but may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code. In Open Records Letter No. 2021-17084, the sheriff's office informed us it had released the basic information at issue, and we determined the sheriff's office may withhold the remaining information at issue under section 552.108(a)(1) of the Government Code. Section 552.007 of the Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure, unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007,

the sheriff's office may not now withhold the previously released information in the submitted reports, unless its release is expressly prohibited by law or the information is confidential by law. Section 552.108 is discretionary and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Thus, the sheriff's office may not withhold any of the previously released information under section 552.108. Therefore, the sheriff's office may not withhold the previously released information in either of the submitted reports under section 552.108 but, instead, must release it.

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. 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). The sheriff's office states the remaining information pertains to cases that concluded in results other than conviction or deferred adjudication. Therefore, the sheriff's office may withhold the remaining information under section 552.108(a)(2) of the Government Code.

In summary, the sheriff's office must release the information it previously released for both of the submitted reports. The sheriff's office may withhold the remaining information under section 552.108(a)(2) 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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ba

Ref: ID# 932680

c: Requestor