



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 26, 2022

Ms. Tiffany Bangs  
Assistant County Attorney  
Harris County Attorney's Office  
1019 Congress Street, 15th Floor  
Houston, Texas 77002-1700

OR2022-11966

Dear Ms. Bangs:

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# 944100 (C.A. File No. 22PIA0197).

The Harris County Constable's Office, Precinct 4 (the "constable's office") received a request for information related to a specified incident. We understand you have released some information to the requestor. You indicate the constable's office does not have information responsive to portions of the request.<sup>1</sup> You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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 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 the information at issue relates to an open criminal investigation. Based on your representation and our review, we

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<sup>1</sup> The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

find 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, the constable's office may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. We note section 552.130 protects privacy interests. Accordingly, the requestor has a right of access to any motor vehicle record information belonging to his client. *See id.* § 552.023(a) (“person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning themselves). In this instance, the requestor may have a right of access to the motor vehicle record information at issue under section 552.023 of the Government Code. However, because we are unable to determine whether the information at issue belongs to the requestor's client, we must rule conditionally. To the extent the motor vehicle record information we have marked belongs to the requestor's client, he has a right of access under section 552.023 to this information, and constable's office may not withhold such information under section 552.130 from the requestor. To the extent the motor vehicle record information we have marked does not belong to the requestor's client, the constable's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the constable's office may withhold the information you have marked under section 552.108(a)(1) of the Government Code. To the extent the motor vehicle record information we have marked does not belong to the requestor's client, the constable's office must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The constable's office must release the remaining information to this requestor.<sup>2</sup>

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.

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<sup>2</sup> As noted above, the requestor may have a right of access to some of the information being released. *See* Gov't Code § 552.023(a); ORD 481 at 4. To the extent the requestor has a right of access, if the constable's office receives another request for this information from an individual without such a right of access, we note section 552.130(c) of the Government Code allows a governmental body to react the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 553.130(e). *See id.* § 552.130(d), (e).

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,

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/be

Ref: ID# 944100

Enc. Submitted documents

c: Requestor  
(w/o enclosures)