



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 11, 2022

Mr. William S. Helfand  
Counsel for the Harris County Constable's Office, Precinct One  
Lewis, Brisbois, Bisgaard & Smith, L.L.P.  
24 Greenway Plaza, Suite 1400  
Houston, Texas 77046

OR2022-31098

Dear Mr. Helfand:

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# 977366.

The Harris County Constable's Office, Precinct One (the "constable's office"), which you represent, received a request for the results of a specified investigation. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

You inform us the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2021-24413 (2021). We understand the constable's office now seeks to withhold under section 552.108 of the Government Code information that was previously ordered released. Section 552.007 of the Government Code provides information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007; Open Records Decision Nos. 518 at 3 (1989), 400 (1983) (governmental body may waive right to claim permissive

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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 that those records contain substantially different types of information than that submitted to this office.

exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, the constable's office may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential under law. Although you raise section 552.108, this section does not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Thus, the constable's office may not now withhold the previously released information under section 552.108 of the Government Code. As you raise no other exceptions for the previously released information at issue, it must be released to the requestor. With respect to the remaining information in the previous ruling, we have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the constable's office must continue to rely on Open Records Letter No. 2021-24413 as a previous determination and withhold or release the remaining information at issue in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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,

Michelle Garza  
Assistant Attorney General  
Open Records Division

MRG/jxd

Ref: ID# 977366

Enc. Submitted documents

c: Requestor  
(w/o enclosures)