



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 18, 2022

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

OR2022-32013

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# 975856 (Ref. Nos. 22PIA0775, 22PIA0776, and 22PIA0777).

The Harris County Constable Precinct 5 (the "constable's office") received three requests from different requestors for certain personnel documents pertaining to a named officer. You claim 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.

Initially, we note the submitted information includes an officer's Texas Commission on Law Enforcement ("TCOLE") identification number. Section 552.002(a) of the Government Code defines "public information" as the following:

[I]nformation 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:
 - (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 officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Thus, we find the officer's TCOLE number does not constitute public information under section 552.002 of the Government Code. Therefore, the officer's TCOLE number is not subject to the Act and need not be released to the requestor.

Section 552.108(a)(1) 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 the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of records may withhold the information if it provides this office with a demonstration the information relates to a pending criminal case and a representation from the law enforcement agency that it wishes to have the information withheld. The information at issue consists of personnel documents of the named officer. We note 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.). The constable's office states, however, the release of the remaining information would interfere with an ongoing criminal investigation by the Houston Police Department (the “department”) involving the named officer. However, the constable's office has not provided a representation from the department, nor has the department provided a representation to this office stating the department wishes to withhold the information at issue. Therefore, the constable's office may not withhold the remaining information under section 552.108(a)(1) of the Government Code.

After reviewing the information at issue, we have determined no novel or complex issue exists in the remaining information. Thus, we address other applicable exceptions in a summary ruling.¹

The constable's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code. The constable's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The constable's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law. The constable's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 560.003 of the Government Code. The constable's office must withhold the CR-3 accident reports in the remaining information under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The constable's office must withhold the date of birth we have marked under section 552.102(a) of the Government Code. The constable's office must withhold all identified public citizens' dates of birth and the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. If the individuals at issue are current or honorably retired peace officers as defined by article 2.12 of the Code of Criminal Procedure, then the constable's office must withhold the information we have marked under section 552.117(a)(2) of the Government Code; however, the constable's office may only withhold any marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. If the individuals at issue are not current or honorably retired peace officers but timely requested confidentiality under section 552.024 of the Government Code, the constable's office must withhold the information we have marked under section 552.117(a)(1) of the Government Code; however, the constable's office may only withhold any marked cellular telephone numbers if the cellular telephone services are not paid for by a governmental body. The constable's office must withhold the cellular telephone numbers we have marked under section 552.1175(a) of the Government Code unless the cellular telephone services are paid for by a governmental body. The constable's office must withhold the motor vehicle record information we have marked and all visible license plates, registration stickers, and vehicle inspection numbers under section 552.130 of the Government Code. The constable's office must withhold the insurance policy numbers we have marked under section 552.136 of the Government Code. The constable's office must withhold the e-mail addresses we have marked under section 552.137 of the Government Code, unless their owners affirmatively consent to their public disclosure. The constable's office must release the remaining information; however, any information subject to copyright may only be released in accordance with copyright law.

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.

¹ The Office of the Attorney General will raise mandatory exceptions on behalf of a governmental body, but ordinarily will not raise other exceptions. See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/pt

Ref: ID# 975856

Enc. Submitted documents

c: Requestor
(w/o enclosures)