



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

October 31, 2022

Ms. Brittany Croce  
Open Records  
Williamson County Sheriff's Office  
508 South Rock Street  
Georgetown, Texas 78626

OR2022-33608

Dear Ms. Croce:

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# 981469.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident involving a named individual. The sheriff's office states it will redact dates of birth of members of the public pursuant to the previous determination issued in Open Records Letter No. 2016-21706 (2016).<sup>1</sup> The sheriff's office claims the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.152 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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 information at issue pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

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<sup>1</sup> Open Records Letter No. 2016-21706 authorizes the sheriff's office to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general decision.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976); *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes, among other items, the names of the arresting and investigating officers, but does not include motor vehicle record information protected by section 552.130 of the Government Code. *See* ORD 127 at 3-4. Thus, with the exception of basic information, the sheriff's office may generally withhold the submitted information under section 552.108(a)(2) of the Government Code.<sup>2</sup>

We note the requestor is a representative of the Federal Bureau of Investigation's National Instant Criminal Background Check System ("NICS") and has a right of access to some of the submitted information. Section 411.089(a) of the Government Code provides a criminal justice agency is entitled to obtain from the Texas Department of Public Safety ("DPS") any criminal history record information ("CHRI") maintained by the DPS about a person. *See* Gov't Code § 411.089(a); *see also id.* § 411.083(b)(1) (DPS shall grant criminal justice agencies access to CHRI). In addition, section 411.087(a) of the Government Code provides, in part:

(a) [A] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or Subchapter E-1 to obtain from [DPS CHRI] maintained by [DPS] that relates to another person is authorized to:

...

(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

*Id.* § 411.087(a)(2). We note CHRI is defined as "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." *See id.* § 411.082(2). A criminal justice agency that receives CHRI from another criminal justice agency pursuant to section 411.087(a)(2) may only receive such information for a criminal justice purpose. *See id.* §§ 411.083(c), .087(b); *see also* Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI). Section 411.082 defines a "criminal justice agency" as including "a federal or state agency that is engaged in the administration of criminal justice under a statute or executive order and that allocates a substantial portion of its annual budget to the administration of criminal justice[.]" Gov't Code § 411.082(3)(A). "Administration of criminal justice" has the meaning assigned by article 66.001 of the Code of Criminal Procedure. *See id.* § 411.082(1). Article 66.001 of the Code of Criminal Procedure defines "administration of

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<sup>2</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

criminal justice” as the “performance of any of the following activities: detection, apprehension, detention, pretrial release, post-trial release, prosecution, adjudication, correctional supervision, or rehabilitation of an offender. The term includes criminal identification activities and the collection, storage, and dissemination of [CHRI].” Crim. Proc. Code art. 66.001(1).

We understand the NICS is engaged in the administration of criminal justice under chapter 411. Further, we understand the requestor intends to use the CHRI for a criminal justice purpose. Consequently, we conclude the sheriff’s office must make available to the requestor information pertaining to the named individual that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. *See* Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).

Section 552.152 of the Government Code provides,

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov’t Code § 552.152. The sheriff’s office informs us some of the basic information relates to an undercover peace officer. The sheriff’s office asserts release of this information would subject the officer to a substantial threat of physical harm. Based upon these representations and our review, we conclude the sheriff’s office has demonstrated release of the information at issue would subject the officer to a substantial threat of physical harm. Therefore, the sheriff’s office must withhold the information it marked under section 552.152 of the Government Code.

In summary, the sheriff’s office must make available to the requestor information pertaining to the named individual that shows the type of allegation made and whether there was an arrest, information, indictment, detention, conviction, or other formal charges and their dispositions. With the exception of basic information, which must be released, the sheriff’s office may withhold the remaining information under section 552.108(a)(2) of the Government Code. In releasing basic information, the sheriff’s office must withhold the information it marked under section 552.152 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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/pt

Ref: ID# 981469

Enc. Submitted documents

c: Requestor  
(w/o enclosures)