



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 28, 2022

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

OR2022-36548

Dear Ms. Hutson:

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# 986446.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for a request for information pertaining to two named officers. You state you will redact certain dates of birth pursuant to Open Records Letter No. 2016-21706 (2016).¹ You claim some of the submitted information is not subject to the Act. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, 552.122, 552.130, 552.136, 552.137, and 552.152 of the Government Code. You also state you notified the Bastrop County Sheriff's Office ("BCSO"); the Ingleside Police Department ("IPD"); and the Travis County District Attorney's Office (the "district attorney's office") of the request for information and of the right to submit arguments to this office as to why the submitted information should not be released.² *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the district attorney's office. We have considered the submitted arguments and reviewed the submitted information.

¹ Open Records Letter No. 2016-21706 authorizes the sheriff's office to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

² As of the date of this letter, we have not received any comments from BCSO or IPD explaining why any portion of the submitted information should not be released to the requestor.

Initially, we note the submitted information includes peace officers' Texas Commission on Law Enforcement ("TCOLE") identification numbers. Section 552.002(a) of the Government Code defines "public information" as information 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.

Id. § 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 submitted TCOLE identification numbers are unique computer-generated numbers assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Therefore, we find the submitted TCOLE numbers do not constitute public information under section 552.002 of the Government Code. Accordingly, the submitted TCOLE numbers are not subject to the Act and the sheriff's office need not release this information to the requestor.³

Next, we note some of the remaining information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2020-23401 (2020), 2020-23420 (2020), and 2020-24600 (2020). Section 552.007 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 id.* § 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 information that was previously released unless its release is expressly

³ As we are able to make this determination, we need not address your remaining argument against disclosure of this information.

prohibited by law or the information is confidential by law. You claim sections 552.108 and 552.122 of the Government Code for the information at issue, some of which may have previously been ordered released. These sections do not prohibit the release of information or make information confidential. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); *see also* 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 Gov't Code § 552.108 subject to waiver). Thus, to the extent the submitted information was previously released in response to the prior requests, the sheriff's office may not now withhold any portion of the previously released information under section 552.108 or section 552.122 of the Government Code. Further, with regard to the submitted information that was not previously released, we have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon, the sheriff's office must continue to rely on Open Records Letter Nos. 2020-23401, 2020-23420, and 2020-24600 as previous determinations and withhold or release the identical information in accordance with these rulings. *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). However, to the extent the information at issue is not encompassed by the prior rulings, we will consider the exceptions you raise.

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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). 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.) (section 552.108 generally not applicable to law enforcement agency's personnel records); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, the district attorney's office objects to the release of the submitted information under section 552.108 because the information at issue pertains to active criminal prosecutions. Based upon this representation, we conclude 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).

Accordingly, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.⁴ In summary, the submitted TCOLE numbers are not subject to the Act and the sheriff's office need not release this information to the requestor. To the extent the submitted information is identical to the information previously requested and ruled upon by this office, the sheriff's office must continue to rely on Open Records Letter Nos. 2020-23401, 2020-23420, and 2020-24600 as previous determinations and withhold or release the identical information in accordance with those rulings. The sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.

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,

D. Michelle Case
Assistant Attorney General
Open Records Division

DMH/jxd

Ref: ID# 986446

Enc. Submitted documents

c: Requestor
(w/o enclosures)

3 Third Parties
(w/o enclosures)

⁴ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.