



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 21, 2022

Mr. Chuck Pinney
Assistant County Attorney
Travis County Sheriff's Office
P.O. Box 1748
Austin, Texas 78767

OR2022-39839

Dear Mr. Pinney:

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# 991695.

The Travis County Sheriff's Office (the "sheriff's office") received a request for information pertaining to the requestor or his address.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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 report numbers 18-04503 and 21-1220366 relate to open law enforcement investigations. Based on your representation, we conclude the release of report numbers 18-04503 and 21-1220366 would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle*

¹ We note the sheriff's office sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

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, section 552.108(a)(1) is applicable to report numbers 18-04503 and 21-1220366.

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 report numbers 19-24510 and 19-27460 relate to law enforcement investigations that have been closed and did not result in conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to report numbers 19-24510 and 19-27460.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the sheriff's office may withhold report numbers 18-04503 and 21-1220366 under 552.108(a)(1) of the Government Code and report numbers 19-24510 and 19-27460 under section 552.108(a)(2) of the Government Code.

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 states the remaining basic information in reports 19-24510 and 19-27460 contains the identities of undercover officers. The sheriff's office represents the release of the undercover officers' identities would subject the officers to a substantial threat of physical harm. Therefore, we find section 552.152 is applicable to the identities of the undercover officers within the information at issue. Accordingly, the sheriff's office must withhold the identifying information of the undercover officers under section 552.152 of the Government Code.²

In summary, with the exception of the basic information, the sheriff's office may withhold report numbers 18-04503 and 21-1220366 under 552.108(a)(1) of the Government Code and report numbers 19-24510 and 19-27460 under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the basic information we marked under section 552.152 of the Government Code.

² As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

Amy Shipp
Assistant Attorney General
Open Records Division

ALS/jxd

Ref: ID# 991695

Enc. Submitted documents

c: Requestor
(w/o enclosures)