



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 9, 2012

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2012-06801

Dear Ms. Rangel:

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# 453028.

The Fort Bend County Sheriff’s Office (the “sheriff”) received a request for “any and all documented complaints” made by two named individuals during a specified time period regarding two specified addresses. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2011-14209 (2011). In Open Records Letter No. 2011-14209, we determined, with the exception of basic information, the sheriff may withhold report number 11-7101 and computer-aided dispatch (“CAD”) report number P111600677 under section 552.108(a)(2) of the Government Code. Further, in Open Records Letter No. 2011-14209, we determined the sheriff must withhold

¹We assume the “representative sample” of information 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 those records contain substantially different types of information than those submitted to this office.

Further, in Open Records Letter No. 2011-14209, we determined the sheriff must withhold the basic information we marked in CAD report number P111600677, as well as report number 10-15074 in its entirety, under section 552.101 of the Government Code in conjunction with common-law privacy. It appears there has been no change in the law, facts, or circumstances with respect to report numbers 11-7101 and 10-15074 and CAD report number P111600677 since the issuance of the previous ruling. Accordingly, we conclude the sheriff must rely on Open Records Letter No. 2011-14209 as a previous determination and withhold or release report numbers 11-7101 and 10-15074 and CAD report number P111600677 in accordance with that ruling.² *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

Furthermore, in Open Records Letter No. 2011-14209, we also determined the sheriff must release report number 08-20812, except for the information we marked under section 552.130 of the Government Code. You again seek to withhold report number 08-20812 under section 552.108 of the Government Code. Section 552.007 of the Government Code 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* Gov't Code § 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 may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. Although you raise section 552.108 for the information we previously ordered released, section 552.108 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), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, pursuant to section 552.007, the sheriff may not now withhold the previously released information in report number 08-20812 under section 552.108.

In summary, the sheriff must withhold or release report numbers 11-7101, 10-15074, 08-20812, and CAD report number P111600677 in accordance with Open Records Letter No. 2011-14209.

²As our determination is dispositive, we need not address your arguments 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 http://www.oag.state.tx.us/open/index_orl.php, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Sean Opperman". The signature is written in a cursive, flowing style.

Sean Opperman
Assistant Attorney General
Open Records Division

SO/dls

Ref: ID# 453028

Enc. Submitted documents

c: Requestor
(w/o enclosures)