



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 14, 2012

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

OR2012-14659

Dear Ms. Lentz:

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# 465307.

The Williamson County Sheriff's Office (the "sheriff's office") received a request for a specified report. You claim that the submitted information is excepted from disclosure under sections 552.108, 552.117, 552.1175, 552.130, 552.136, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

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 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.*

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<sup>1</sup>We 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.

§§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation and release of the information could interfere with that investigation. Based on your representation and our review, we find release of the submitted information 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). Thus, section 552.108(a)(1) is generally applicable to the submitted information.

We note, however, the submitted information includes a criminal trespass warning notice. The sheriff's office provided a copy of this notice to the individual being warned. You have not explained how releasing this information, which has already been seen by the individual being warned, would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the criminal trespass warning notice may not be withheld under section 552.108. In addition, 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*, and includes the identities of investigating officers. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include information subject to section 552.130 of the Government Code or the identities of witnesses. *See id.* Thus, with the exception of the criminal trespass warning notice and basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

You claim portions of the basic information are excepted under section 552.1175 of the Government Code. Section 552.1175 is applicable to information relating to a peace officer, as defined by article 2.12 of the Code of Criminal Procedure. Gov't Code § 552.1175(a). Further, this section applies to information pertaining to a peace officer that the sheriff's office does not hold in an employment context. Section 552.1175(b) provides, in part, the following:

Information that relates to the home address, home telephone number, emergency contact information, or social security number of [a peace officer as defined by article 2.12 of the Code of Criminal Procedure], or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

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<sup>2</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against disclosure.

(1) chooses to restrict public access to the information; and

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

*Id.* § 552.1175(b). Upon review, we find the sheriff's office must withhold the information we have marked under section 552.1175 if the peace officer at issue is still a licensed peace officer and elects to restrict access to his information in accordance with section 552.1175(b).<sup>3</sup> If no election is made, the sheriff's office may not withhold the individual's information under section 552.1175 of the Government Code.

You seek to withhold the identifying information of undercover officers from the remaining basic information under section 552.152 of the Government Code, which provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 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.

*Id.* § 552.152. You inform us portions of the remaining basic information consists of the names and identification numbers of undercover sheriff's office deputies. You state release of this information would subject the deputies to a "substantial threat of physical harm." Based on your representation, we agree the sheriff's office must withhold the information we have marked from the basic information under section 552.152 of the Government Code.

In summary, with the exception of the criminal trespass warning notice and basic information, which must be released, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the sheriff's office must withhold the information we have marked under (1) section 552.1175 of the Government Code if the peace officer at issue is still a licensed peace officer and elects to restrict access to his information in accordance with section 552.1175(b); and (2) section 552.152 of the Government Code. The sheriff's office must release the remaining 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.

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<sup>3</sup>As our ruling is dispositive for this information, we need not address your claim under section 552.117 of the Government Code.

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](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,



Sean Opperman  
Assistant Attorney General  
Open Records Division

SO/som

Ref: ID# 465307

Enc. Submitted documents

c: Requestor  
(w/o enclosures)