



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 23, 2012

Mr. Michael Shaunessy
Counsel for the Bandera County Sheriff's Department
Sedwick, LLP
919 Congress Avenue, Suite 1250
Austin, Texas 78701-3656

OR2012-16935

Dear Mr. Shaunessy:

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# 468732.

The Bandera County Sheriff's Office (the "sheriff's office"), which you represent, received a request for the sworn statement of a named individual. You state you have released some information to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. You have submitted documentation showing you notified interested parties of the request for information and of their right to submit arguments to this office as to why the submitted information should not be released. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the exceptions you claim 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[.]" *Id.* § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked pertains to an ongoing criminal investigation. Based on your representation and our review, we conclude release

of the marked information would interfere with the detection, investigation, or prosecution of a crime. See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the sheriff's office may withhold the marked information under section 552.108(a)(1) of the Government Code.¹

We note a portion of the remaining information is subject to section 552.1175 of the Government Code.² Section 552.1175 protects the home address, home telephone number, emergency contact information, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. See Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined by Article 2.12, Code of Criminal Procedure." *Id.* § 552.1175(a)(1). We have marked information of a peace officer that is subject to section 552.1175. If the peace officer elects to restrict access to the information pertaining to her in accordance with section 552.1175(b), the sheriff's office must withhold the marked information under section 552.1175 of the Government Code.

In summary, the sheriff's office may withhold the information it has marked under section 552.108(a)(1) of the Government Code. If the peace officer elects to restrict access to the information pertaining to her in accordance with section 552.1175(b) of the Government Code, the sheriff's office must withhold the information we have marked under section 552.1175 of the Government Code. As you raise no additional exceptions to disclosure for the remaining information, it must be released to the requestor.

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

¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/bhf

Ref: ID# 468732

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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