

February 4, 2016

***** **REQUEST FOR OPEN RECORDS LETTER RULING** *****

Via First Class Mail CMRRR

Honorable Ken Paxton
Attorney General of Texas
Supreme Court Building
P. O. Box 12548
Austin, Texas 78711-2548
Attention: Open Records Committee

***Certified Mail
Return Receipt Requested***

Re: Public Information Request received January 29, 2016 from Jay Root to the Harris County Sheriff's Office requesting a copy of any releasable files, video and pictures pertaining to Incident Report No. 15-15980. *HCSO File Number #14SO6001100.*

Dear Attorney General Paxton:

On January 29, 2016, the Harris County Sheriff's Office received the enclosed written request by Jay Root for a copy of any releasable files, video and pictures pertaining to Incident Report No. 15-15980 See *Exhibit "A."*

By copy of this letter, the requestor is being notified that we believe the responsive information is excepted from public disclosure under the Texas Government Code § 552.108, and that if the requestor should have any questions regarding the Texas Public Information Act, he/she may contact the Office of the Attorney General's Hotline at (877) 673-6839. The Harris County Sheriff's Office advises that it will release the basic public release information to the requestor.

ARGUMENT AND AUTHORITY

The Harris County Sheriff's Office deems the subject request to be one pursuant to the Texas Public Information Act, TEX. GOV'T CODE ANN. §§ 552.001-552.353. The information has not been released, as the information requested appears to fall within an exception to the Public Information Act, TEX. GOV'T CODE ANN. §552.101 et. seq. The Harris County Sheriff's Office notes that the responsive information is voluminous; thus the Harris County Sheriff's Office has enclosed a representative sample See *Exhibit "B"* for your consideration.

The Public Information Act provides that "public information" means information that is collected, assembled, or maintained under a law or ordinance, or in connection with the transaction of official business: (1) by a governmental body; or (2) for a governmental body and the governmental body owns the information or has a right of access to it." TEX. GOV'T

CODE ANN. § 552.021, *as amended*. Public information must be disclosed unless the information falls within one of the Act's specific exceptions to disclosure. TEX. GOV'T CODE ANN. § 552.001, *et seq.*, *as amended*; Open Records Decision Nos. 511 (1988) and 363 (1983).

The information requested contains records that fall under §552.108 of the Texas Government Code, the "law enforcement exception." Section 552.108 (a)(2) provides that:

- (a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication ...

Gov't Code § 552.108(a)(2).

The Harris County Sheriff's Office advises that Exhibit "B" pertains to a criminal investigation that did not result in conviction or deferred adjudication. The HCSO advises that the investigation was concluded by the Harris County Grand Jury's decision to no bill the suspect. *See* Exhibit "C", which is not part of the responsive information. Therefore, the HCSO believes the information in Exhibit "B" should be excepted from public disclosure pursuant to section 552.108(a)(2) because it concluded in a result other than conviction or deferred adjudication.

The Harris County Sheriff's Office respectfully requests a ruling on this matter. Please do not hesitate to contact our office at (713) 755-6044 if you need additional information.

Sincerely,



SIGNATURE

RYAN S. SULLIVAN

PRINT NAME

PUBLIC INFORMATION OFFICER

TITLE

cc: Jay Root
Email: jroot@texastribune.org

Sullivan, Ryan (HCSO)

From: Jay Root <jroot@texastribune.org>
Sent: Friday, January 29, 2016 2:10 PM
To: Sullivan, Ryan (HCSO)
Subject: New Request



Dear Ryan,

Per our conversation, I am resubmitting my open records request for records related to the deceased immigrant Victor Reyes Rodriguez, whose date of birth is 4-19-1983.

My understanding is that your offense file number is HC15-15980-HCSO.

I am looking for any releasable files, video and pictures you have on the 1-31-2015 incident in which Victor Reyes Rodriguez killed two and wounded three, including Juan Garcia in Harris County, and who was killed by Deputy Javier Rojas.

Please do not hesitate to call me if you have any questions about the scope or nature of this request.

Thanks,

Jay Root
512-750-5477

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Jay Root
Reporter/Texas Tribune
Ph: [512-716-8643](tel:512-716-8643)
Twitter: @byjayroot

Harris County Public Release

Incident Report

2/5/2016

9:03 am

Details of Incident 15-15980

Aggravated Assault

Reported on 1/31/2015 at 1:17:00AM

Reporting Officer: ROJAS, J.

Location: 18000 W LITTLE YORK RD, HOUSTON, 77449

Zone: SLMW20

Occurred between 1/31/2015 at 1:10:00AM and 1/31/2015 at 4:45:00AM

S4

Involved Persons

| <u>How Involved</u> | <u>Name</u> | <u>Sex</u> | <u>Race</u> |
|-----------------------|-------------|------------|-------------|
| Complainant or victim | | Male | White |

Involved Property

| <u>How Involved</u> | <u>Brand</u> | <u>Model</u> | <u>Serial No</u> | <u>Description</u> | <u>Value</u> |
|---------------------|--------------|--------------|------------------|--------------------|--------------|
| Damaged | | | | light pole | 3,000.00 |
| Damaged | | | | shrubby | 200.00 |
| Damaged | | | | water main | 1,000.00 |

Involved Vehicles

None Reported

Synopsis

End of Report