



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 12, 2013

Mr. John A. Haislet
Assistant City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2013-15869

Dear Mr. Haislet:

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# 499100.

The College Station Police Department (the "department") received a request for seven categories of information related to two specified offenses, including all 9-1-1 calls; ambulance records; police reports; witness statements; arrest reports; crime scene reports; and photographs. You state the department has released some of the requested information. You claim the remaining requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains documents that have been filed with a court. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The court-filed documents we have marked are subject to section 552.022(a)(17). You seek to withhold this information under sections 552.103 and 552.108 of the Government Code, which are discretionary exceptions to disclosure that protect a governmental body's interests and may be waived. *See id.* § 552.007; *Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision Nos. 665 at 2 n.5 (discretionary exceptions

generally), 663 (1999) (governmental body may waive section 552.103), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, sections 552.103 and 552.108 do not make information confidential under the Act. Therefore, the department may not withhold the court-filed documents under section 552.103 or section 552.108. As you raise no other exceptions for this information, it must be released. However, we will address your argument under section 552.108 for the remaining 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 must reasonably 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 the submitted information concerns two criminal cases, and prosecution for one of the cases is pending. You state both cases arose from the same criminal transaction and the two cases share the same case file notes, narratives, evidence, and suspect information. Because of this, you assert release of any of the information at issue would interfere with the pending prosecution. Based upon your representations and our review, we find release of the information at issue 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).

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). 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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, except for basic information, which you state has been released, and the court-filed documents we have marked, the department may withhold the submitted information from disclosure under section 552.108(a)(1) of the Government Code.¹

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.

¹As our ruling is dispositive, we need not address your remaining argument against disclosure, except to note basic information may not be withheld from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/dls

Ref: ID# 499100

Enc. Submitted documents

c: Requestor
(w/o enclosures)