



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 16, 2015

Ms. Sylvia McClellan
Assistant City Attorney
City of Dallas
Criminal Law and Police Section
1400 South Lamar Street
Dallas, Texas 75215

OR2015-07404

Dear Ms. McClellan:

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# 560851 (Dallas Reference No. 2015-01869).

The Dallas Police Department (the "department") received a request for all public integrity records related to a specified investigation. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

We note the submitted information includes a search warrant subject to section 552.022. Section 552.022 of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although you seek to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000), 177 at 3 (1977). Therefore, the search warrant we have marked may not be withheld under section 552.108. As no other exceptions are raised for this information, it must be released.

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 remaining information relates to a pending criminal investigation or prosecution. *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). Based on this representation and our review, we conclude section 552.108(a)(1) of the Government Code is applicable to the information at issue.

However, as you acknowledge, section 552.108 does not except from disclosure basic information about a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186-87. This information includes, but is not limited to, a sufficient portion of the narrative to include a detailed description of the offense. *See Open Records Decision No. 127* (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.

We note some of the basic information at issue may be subject to section 552.1175 of the Government Code.¹ Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, 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 note the basic information in this instance includes the social security number of the arrestee. This information is held in a law enforcement capacity and may be subject to section 552.1175. However, as we are unable to determine if the individual at issue is a currently licensed peace officer, we must rule conditionally. If the individual whose information is at issue is a currently licensed peace officer and elects to restrict access to the information in accordance with section 552.1175(b), then the department must withhold his social security number under section 552.1175 of the Government Code. If the individual whose information is at issue is not a currently licensed peace officer, or no

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481* (1987), *480* (1987), *470* (1987).

election is made, then the department may not withhold his social security number under section 552.1175(b) of the Government Code.²

In summary, the department must release the search warrant we have marked under section 552.022(a)(17). With the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the department must withhold the social security number of the arrestee under section 552.1175 of the Government Code, but only if the department determines the individual is still a licensed peace officer, and an election is made under section 552.1175(b).

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.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,



Cristian Rosas-Grillet
Assistant Attorney General
Open Records Division

CRG/cbz

Ref: ID# 560851

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note, regardless of the applicability of section 552.1175, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting an attorney general decision under the Act. *See* Gov't Code § 552.147(b).