



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 25, 2016

Mr. Ricardo Vela, Jr.  
Assistant District Attorney  
Appellate Division  
Dallas County District Attorney's Office  
133 North Riverfront Boulevard, LB-19  
Dallas, Texas 75207

OR2016-01810

Dear Mr. Vela:

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# 601127.

The Dallas County District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified case. You claim the submitted 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.

We note the submitted information includes a court-filed document. 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 it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). We have marked the document that is subject to section 552.022(a)(17). Although you raise sections 552.103 and 552.108 of the Government Code, this is a discretionary exception and does not make information confidential under the Act. *See 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); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 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 for the purposes of section 552.022. Therefore, the marked court-filed document may not be withheld under section 552.103 or section 552.108. However, we note a portion of the court document is subject to section

552.101, which makes information confidential under the Act.<sup>1</sup> Therefore, we will address the applicability of section 552.101 to the information subject to section 552.022(a)(17).

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses laws that make criminal history record information (“CHRI”) confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See* Gov’t Code § 411.089(b)(1). The court document subject to section 552.022 contains a Federal Bureau of Investigation (“FBI”) number that constitutes CHRI generated by the FBI. Therefore, the district attorney’s office must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law.

You claim the remaining submitted information is excepted from disclosure under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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). Generally, a governmental body claiming section 552.108(a)(1) 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 prosecution. Based upon your representation and our review, we conclude that the release of the remaining 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 applicable to the remaining submitted information.

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; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the district

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

attorney's office may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

In summary, the court document we have marked under section 552.022(a)(17) of the Government Code must be released, except for the information we have marked under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law. With the exception of basic information, the district attorney's office may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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](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,



Britni Ramirez  
Assistant Attorney General  
Open Records Division

BR/bhf

Ref: ID# 601127

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling under section 552.108 is dispositive, we need not address your remaining argument against disclosure, except to note that basic information may generally not be withheld from public disclosure under section 552.103 of the Government Code. See Open Records Decision No. 597 (1991).