



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 11, 2016

Mr. James McKechnie
Assistant City Attorney
Office of the City Attorney
City of Wichita Falls
P.O. Box 1431
Wichita Falls, Texas 76307

OR2016-08040

Dear Mr. McKechnie:

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# 611452 (ORR# 178).

The Wichita Falls Police Department (the "department") received a request for case number 15-101101. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, we note the submitted information includes court-filed documents. 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 expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). The

¹We note the requestor has a right of access to the information at issue pursuant to section 261.201(k) of the Family Code. *See* Fam. Code § 261.201(k) (parent of child victim of abuse or neglect has right of access to information otherwise confidential under section 261.201(a) of the Family Code). If the department receives another request for this information from a different requestor, the department must again seek a ruling from this office. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).

department seeks to withhold the information at issue under section 552.108 of the Government Code. However, 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) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the department may not withhold the court-filed documents, which we have marked, under section 552.108. However, we will address the department's arguments against disclosure of 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(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 an active investigation or prosecution. Based on your representation, we conclude the 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, we note, and you acknowledge, 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 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the marked court-filed documents, which must be released pursuant to section 552.022(a)(17) of the Government Code, and the basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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,

A handwritten signature in black ink, appearing to read "Claire Morris Sloan", with a long horizontal flourish extending to the right.

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 611452

Enc. Submitted documents

c: Requestor
(w/o enclosures)