



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2016

Mr. Renaldo Stowers
Senior Associate General Counsel
University of North Texas System
1155 Union Circle #310907
Denton, Texas 76203

OR2016-09963

Dear Mr. Stowers:

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# 608383 (UNT PIR No. 003777).

The University of North Texas (the "university") received a request for all police reports and service calls regarding a specified incident involving a named individual; information pertaining to the training of a named university police officer; reports of allegations, complaints, or disciplinary actions involving the named university police officer; information pertaining to the equipment worn by all university police officers; reports generated by other law enforcement agencies regarding the specified incident; all photographs and video associated with the specified incident; and witness statements regarding the specified incident.¹ We understand you will release some information. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.²

¹We note the requestor modified her request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor for purposes of clarifying or narrowing request). *See also City of Dallas v. Abbott*, 304 S. W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

²Although you also raise section 552.101 of the Government Code, you have not provided any arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See* Gov't Code §§ 552.301, .302.

We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.³

Initially, we note some of the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2016-05967 (2016) and 2016-06337 (2016). In Open Records Letter No. 2016-05967 (2016), we determined the university may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the Texas Department of Public Safety (the "department"). In Open Records Letter No. 2016-06337 (2016), we determined, in part, the university (1) may withhold the information it marked and the submitted audio and video recordings at issue under section 552.108(a)(1) of the Government Code and (2) must release the remaining responsive information. We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the university must rely on Open Records Letter Nos. 2016-05967 and 2016-06337 as previous determinations and withhold or release the identical information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your arguments against the disclosure of the submitted information that is not subject to the prior rulings.

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). 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). Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. Additionally, we note section 552.108 is generally not applicable to the records

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App. —El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982).

You state, and provide documentation from the department representing, the submitted information relates to an ongoing criminal investigation by the department and release of that information would interfere with the investigation. Additionally, you represent the submitted internal affairs investigation relates to an ongoing criminal investigation that is being investigated by the department. Based upon these representations, we conclude that the release of this 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 submitted information.

However, we note 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 basic information, which must be released, the university may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department.

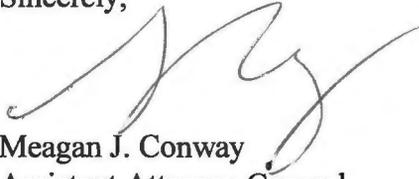
In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the university must rely on Open Records Letter Nos. 2016-05967 and 2016-06337 as previous determinations and withhold or release the identical information in accordance with those rulings. With the exception of the basic information, the university may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department.

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 'MJC', written over the typed name.

Meagan J. Conway
Assistant Attorney General
Open Records Division

MJC/akg

Ref: ID# 608383

Enc. Submitted documents

c: Requestor
(w/o enclosures)