



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2016

Ms. Judy Hickman
Assistant Supervisor
Beaumont Police Department
P.O. Box 3827
Beaumont, Texas 77704-3827

OR2016-11633

Dear Ms. Hickman:

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# 611311.

The Beaumont Police Department (the "department") received a request for information pertaining to a specified case, including dash camera video recordings. You inform us the department has no information responsive to a portion of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.130, and 552.137 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes court-filed documents that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) provides for the 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). Although you raise section 552.108 of the Government Code, this is a discretionary exception and does not make information confidential under the Act. *See 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*

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); *Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).*

section 552.108 subject to waiver). As such, section 552.108 does not make information confidential for the purposes of section 552.022. Therefore, the court-filed documents, which we have marked, may not be withheld under section 552.108. However, as section 552.130 of the Government Code can make information confidential under the Act, we will address the applicability of section 552.130 to the marked court-filed documents. We will also consider your arguments against disclosure for the remaining information.

Section 552.108 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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us the remaining information pertains to a pending criminal investigation. Based on your representation and our review of the information, we find release of the information at issue would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d per curiam*, 536 S.W.2d 559 (Tex. 1976).

We note, 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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. We note basic information includes, among other items, a detailed description of the offense. *See* ORD 127 at 3-4. However, the basic information does not include dates of birth, motor vehicle record information encompassed by section 552.130 of the Government Code, or the identity of a suspect who is not an arrestee. *See id.* Therefore, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130(a). Accordingly, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, the department must release the court-filed documents we have marked under section 552.022(a)(17) of the Government Code. With the exception of basic information,

²As our ruling is dispositive, we need not consider your remaining arguments against disclosure of this information.

the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the court-filed documents we have marked, the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.³

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,



Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/bw

Ref: ID# 611311

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the information being released includes information that may be confidential with respect to the general public. The submitted social security number may generally be withheld under section 552.147 of the Government Code. However, because section 552.147 protects personal privacy, the requestor has a right to his own social security number under section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number without the necessity of requesting a decision from this office. Gov't Code § 552.147(b). Thus, if the department receives another request for this same information from a different requestor, section 552.147(b) of the Government Code authorizes the department to withhold the social security number without the necessity of requesting an attorney general decision.