



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 16, 2016

Ms. Teresa J. Brown
Senior Open Records Assistant
Plano Police Department
P. O. Box 860358
Plano, Texas 75086-0358

OR2016-13674

Dear Ms. Brown:

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# 616188 (OR# POUND042814).

The Plano Police Department (the "department") received a request for the department's policies regarding vehicle pursuit, use of force, and blood draw. The department claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information.

Initially, we note the department may have released some of the submitted information in response to a previous request for this information under the Act. Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law. *See* Gov't Code 552.007; Open Records Decision Nos. 518 at 3 (1989), 400 at 2 (1983). Section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests. *See* Open Records Decision Nos. 665 at 5 (2000) (untimely request for decision resulted in waiver of discretionary exceptions), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). As such, section 552.108 does not expressly prohibit the release of the submitted information or make the information confidential. Therefore,

to the extent the department previously released any of the submitted information to a member of the public, the department may not now withhold any such information under section 552.108 but, instead, must release it. To the extent the department did not previously release the submitted information to a member of the public, we will address its arguments against disclosure.

Section 552.108(a) 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: (1) 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 explain how and why the release of the information at issue 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, 710 (Tex. 1977). The department states the submitted information relates to a pending criminal case investigation or prosecution, and further informs us the Collin County District Attorney’s Office requests the information be withheld under section 552.108(a), as release would interfere with the prosecution of this case. Based on these representations, we conclude 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code, to the extent it has not previously released it to a member of the public.¹

To conclude, to the extent the department previously released any of the submitted information to a member of the public, the department must release such information to the requestor. To the extent the department did not previously release the submitted information to a member of the public, the department may withhold it 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

¹As our ruling is dispositive, we do not address the other argument of the department to withhold this information.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 616188

Enc. Submitted documents

c: Requestor
(w/o enclosures)