



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 19, 2016

Ms. Dawn Roberts
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 760049-1065

OR2016-18805

Dear Ms. Roberts:

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# 624444 (PD Ref. Nos. 27446, 27448, 27450, 27451, 27484, 27497, 27537, 27566, 27635, 27876, 28002, and 28306).

The Arlington Police Department (the "department") received multiple requests for information pertaining to a specified investigation.¹ The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have received comments from one of the requestors. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or

¹The department states it sought and received clarification of one of the requests. *See Gov't Code* § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.²

Initially, we note request 27497 seeks, in relevant part, the number of traffic tickets written by certain suspended officers. We note Exhibit D, which the department states is responsive to only request 27497, contains information beyond the number of traffic tickets written by the officers at issue. Accordingly, we find such information is non-responsive to the instant request, and the department is not required to release it in response to this request. Further, the department asserts that request 27497 asks the department to answer a question. The Act does not require a governmental body to answer factual questions. *See* Open Records Decision Nos. 563 at 8 (1990), 555 at 1-2 (1990). However, we note a governmental body must make a good-faith effort to relate a request to information held by the governmental body. *See* Open Records Decision No. 561 at 8 (1990). Because the department has submitted information containing the number of traffic tickets written by the officers at issue, we will address the department's arguments against disclosure of such information.

Section 552.108(a)(1) of the Government Code exempts 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 explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note section 552.108 is generally not applicable to the records 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). However, the department states the requested information relates to an ongoing criminal investigation being conducted by the department. Based upon this representation, we conclude release of the requested information will 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.*

²We 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.

per curiam, 536 S.W.2d 559 (Tex. 1976). Accordingly, we find the department may withhold the requested information under section 552.108(a)(1) 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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 624444

Enc. Submitted documents

c: 11 Requestors
(w/o enclosures)

³As our ruling is dispositive, we need not address the department's remaining arguments against disclosure.