



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 15, 2016

Mr. Kenny Seymour
Chief of Police
Fulshear Police Department
P.O. Box 279
Fulshear, Texas 77441

OR2016-25401

Dear Mr. Seymour:

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# 634830.

The Fulshear Police Department (the "department") received a request for information pertaining to a specified address during a specified time period. You claim some of the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, the department contends some of the submitted information is not responsive to the present request for information. A governmental body must make a good-faith effort to relate a request to information that is within its possession or control. *See* Open Records Decision No. 561 at 8-9 (1990). Upon review, we find the information at issue pertains to the specified address during the specified time period. Thus, we find the department has made a good-faith effort to relate the request to information within its possession or control on the date the department received the request. Accordingly, we will determine whether the department must release this information to the requestor under the Act.

We note the submitted information includes a magistrate signed document. 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 it is "made confidential

under [the Act] or other law[.]” Gov’t Code § 552.022(a)(17). We have marked the document that is subject to section 552.022(a)(17). Although you seek to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such section 552.108 does not make information confidential for the purposes of section 552.022. Accordingly, the magistrate signed document may not be withheld under section 552.108. As you raise no further exceptions to disclosure of this information, it must be released. However, we will address the applicability of section 552.108 to the remaining information, which is not subject to section 552.022.

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 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 in report numbers 161646, 163551, and 164420 pertains to open and active criminal investigations by the department. 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). Therefore, we agree section 552.108(a)(1) is applicable to the remaining information in report numbers 161646, 163551, and 164420. However, you do not explain how report numbers 165158 and 165159 pertain to open and active criminal investigations by the department. Thus, we find you have failed to demonstrate release of this information would interfere with the detection, investigation, or prosecution of crime. Therefore, the department may not withhold report numbers 165158 and 165159 under section 552.108(a)(1) of the Government Code.

We note section 552.108 does not except from disclosure basic information about a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*, 531 S.W.2d at 186–87. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the department must release, the department may withhold the remaining information in report numbers 161646, 163551, and 164420 under section 552.108(a)(1) of the Government Code.

In summary, the department must release the magistrate signed document we have marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the department may withhold the remaining information in report

numbers 161646, 163551, and 164420 under section 552.108(a)(1) of the Government Code. The department must release the remaining information.

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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/bhf

Ref: ID# 634830

Enc. Submitted documents

c: Requestor
(w/o enclosures)