



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 29, 2017

Mr. T. Daniel Santee
Counsel for the City of Schertz
Denton, Navarro, Rocha, Bernal, Hyde & Zech, PC
2517 North Main Avenue
San Antonio, Texas 78212-4685

OR2017-06520

Dear Mr. Santee:

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# 650824.

The Schertz Police Department (the "department"), which you represent, received a request for five specified incident reports. You state you have released some information. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 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 inform this office the Guadalupe County Attorney's Office (the "county attorney's office") objects to release of case numbers 2016-59115 and 2016-58995 because release would interfere with pending criminal investigations and prosecutions. Based upon your representation and our review, we conclude release of case numbers 2016-59115 and 2016-58995 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, we conclude section 552.108(a)(1) of the Government Code is applicable to case numbers 2016-59115 and 2016-58995.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state case numbers 2016-18513 and 2016-09458 relate to closed cases that did not result in convictions or deferred adjudications. Based on your representation, we conclude section 552.108(a)(2) is applicable to case numbers 2016-59115 and 2016-58995.

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 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold case numbers 2016-59115 and 2016-58995 under section 552.108(a)(1) on behalf of the county attorney's office and case numbers 2016-59115 and 2016-58995 under section 552.108(a)(2) 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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Emily Buchanan
Assistant Attorney General
Open Records Division

EB/nmd

Ref: ID# 650824

Enc. Submitted documents

c: Requestor
(w/o enclosures)