



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2017

Mr. Mark E. Dempsey
Assistant City Attorney
City of Garland
P. O. Box 469002
Garland, Texas 75046-9002

OR2017-11099

Dear Mr. Dempsey:

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# 665843 (Garland ID# GCA17-0232).

The Garland Police Department (the "department") received a request for a specified report. 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, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). The submitted information contains a court-filed document that is subject to subsection 552.022(a)(17) and must be released unless it is made

confidential under the Act or other law. *See id.* You seek to withhold the information subject to subsection 552.022(a)(17) under section 552.108 of the Government Code. However, section 552.108 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 Gov't Code § 552.108 subject to waiver).* Therefore, the marked court-filed document may not be withheld under section 552.108 of the Government Code. As you claim no other exception to the disclosure of the marked court-filed document, it must be released.

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 submitted information pertains to a pending criminal case. 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). Thus, section 552.108(a)(1) is applicable to the information at issue. Accordingly, the department may withhold the remaining marked information under section 552.108(a)(1) of the Government Code.¹

In summary, the marked court-filed document must be released pursuant to section 552.022(a)(17) of the Government Code. The department may withhold the remaining marked information under section 552.108(a)(1) of the Government Code. The department must release the remaining information to this requestor.²

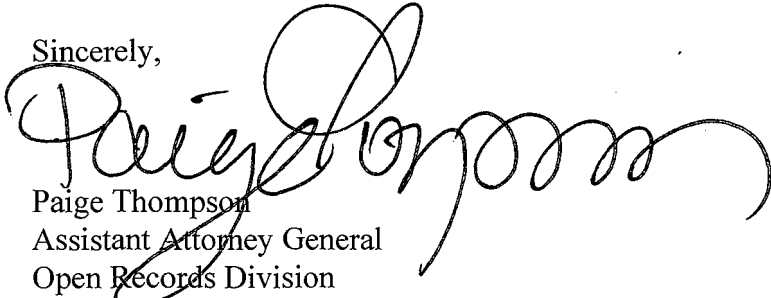
¹As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

²We note the requestor has a special right of access to some of the information being released in this instance. *See Gov’t Code § 552.023(b)* (governmental body may not deny access to person to whom information relates, or that party’s representative, solely on grounds that information is considered confidential by privacy principles). Because such information is confidential with respect to the general public, if the department receives another request for this information from a different requestor, then the department should again seek a ruling from this office.

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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

Ref: ID# 665843

Enc. Submitted documents

c: Requestor
(w/o enclosures)