



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 6, 2017

Mr. Andrew Wipke
Assistant District Attorney
Lubbock County
904 Broadway, Second Floor
Lubbock, Texas 79401

OR2017-12406

Dear Mr. Wipke:

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# 661169 (ORR.252).

Lubbock County (the "county") received a request for six categories of information. You state you have released some information related to the first category of the request to the requestor. You further state the county does not have information responsive to the second, third, fourth, or fifth category of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor only seeks the front page of specified offense reports. Accordingly, only the first page of the submitted offense reports are responsive to the request. This ruling does not address the public availability of any information that is not

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

responsive to the request and the county is not required to release such information in response to this request.²

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). Generally, 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 information you have marked relates to a pending criminal case. Based upon this representation, we conclude that 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). Accordingly, section 552.108(a)(1) is applicable to the information you have marked.

Section 552.108(a)(2) of the Government Code excepts from disclosure information dealing with the detection, investigation, or prosecution of crime only in relation to 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 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 the information you have marked relates to a concluded criminal case that did not result in conviction or deferred adjudication. Based on this representation, we conclude section 552.108(a)(2) is applicable to the information you have marked.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 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). We note basic information does not include motor vehicle record information protected by section 552.130 of the Government Code, dates of birth, or social security numbers of victims or suspects, but does include the arrestee’s social security number. *See* ORD 127. Thus, with the exception of the basic information, the county may withhold the responsive information you have marked under section 552.108(a)(1) and section 552.108(a)(2) of the Government Code.³

²As our ruling is dispositive, we need not address your arguments against disclosure of this information.

³As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

Section 552.147(a) of the Government Code excepts the social security number of a living individual from public disclosure. Gov't Code § 552.147(a). Accordingly, the county may withhold the social security number you have marked within the basic information under section 552.147 of the Government Code.

In summary, with the exception of the basic information, the county may withhold the responsive information you have marked under section 552.108(a)(1) and section 552.108(a)(2) of the Government Code. The county may withhold the social security number you have marked within the basic information under section 552.147 of the Government Code. The county must release the remaining responsive basic 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,



Tim Neal
Assistant Attorney General
Open Records Division

TN/tdw

Ref: ID# 661169

Enc. Submitted documents

c: Requestor
(w/o enclosures)