



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 14, 2017

Ms. Mary Kay Fischer
City Attorney
City of Friendswood
910 South Friendswood Drive
Friendswood, Texas 77546

OR2017-21075

Dear Ms. Fischer:

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# 676201.

The Friendswood Police Department (the "department") received a request for six categories of information pertaining to a named department officer and a specified incident. We understand the department will redact information pursuant to sections 552.130(c) and 552.147(b) of the Government Code and pursuant to Open Records Decision Nos. 684 (2009) and 670 (2001).¹ You claim the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information without the necessity of requesting an attorney general decision. We note a governmental body may withhold a peace officer's home address and telephone number, personal cellular telephone and pager numbers, and family member information under section 552.117(a)(2) without requesting an attorney general decision. *See* ORD 670.

Initially, we note the submitted information contains a peace officer's Texas Commission on Law Enforcement ("TCOLE") identification number. Section 552.002(a) of the Government Code defines "public information" as information that is written, produced, collected, assembled, or maintained under a law or ordinance or in connection with the transaction of official business:

- (1) by a governmental body;
- (2) for a governmental body and the governmental body:
 - (A) owns the information;
 - (B) has a right of access to the information; or
 - (C) spends or contributes public money for the purpose of writing, producing, collecting, assembling, or maintaining the information; or
- (3) by an individual officer or employee of a governmental body in the officer's or employee's official capacity and the information pertains to official business of the governmental body.

Gov't Code § 552.002(a). In Open Records Decision No. 581 (1990), this office determined certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. We understand an officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in the commissioner's electronic database, and may be used as an access device number on the TCOLE website. Thus, we find the TCOLE identification number in the submitted information does not constitute public information under section 552.002 of the Government Code. Therefore, the submitted TCOLE identification number is not subject to the Act and need not be released to the requestor.

Next, we note some of the submitted information, which we marked, is not responsive to the instant request because it was created after the date the department received the instant request. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release such information in response to the instant request.

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). In this instance, the responsive information includes personnel file records pertaining to the named officer. Section 552.108 is generally not applicable to purely administrative records that do not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (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, you inform us the information relates to a pending criminal case in which the officer whose information is at issue was the investigating officer and issued the criminal citations. Based upon this representation, we conclude the release of the submitted information 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 submitted information.

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 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, the department may withhold the submitted responsive information under section 552.108(a)(1) of the Government Code.²

We note some of the basic information may be subject to section 552.1175 of the Government Code. Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov’t Code § 552.1175. In this instance, however, the information at issue pertains to the requestor, who has a right of access to his own personal information under section 552.023 of the Government Code. *See id.* § 552.023 (person or person’s authorized representative has special right of access to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect person’s privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself). Therefore, the

²As our ruling is dispositive, we need not address the remaining arguments against disclosure, except to note basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).

department may not withhold the information pertaining to the requestor under section 552.1175 of the Government Code.

In summary, the submitted TCOLE identification number is not subject to the Act and need not be released to the requestor. This ruling does not address the public availability of the marked, non-responsive information, and the department is not required to release it in response to this request. With the exception of basic information, which must be released, the department may withhold the responsive 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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 676201

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a right of access to some of the information being released under section 552.023 of the Government Code. *See* Gov't Code § 552.023. Accordingly, if the department receives another request for this same information from a different requestor, the department must again seek a ruling from this office.