



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 28, 2017

Mr. O. Charles Buenger
Counsel for City of Mexia
Buenger & Associates
3203 Robinson Drive
Waco, Texas 76706

OR2017-27045

Dear Mr. Buenger:

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# 685307.

The Mexia Police Department (the "department"), which you represent, received two requests from the same requestor for information pertaining to a specified incident involving a named individual and a named officer. 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.

Initially, we note some of the submitted information is not responsive to the present requests because it does not pertain to the specified incident involving the named individual and the named officer. This ruling does not address the public availability of the non-responsive information, and the department need not release it in response to this 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). 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). We note section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v.*

Cornyn, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. 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). The responsive information pertains to an administrative investigation of a department officer. However, you state this information resulted in an ongoing criminal investigation, and assert release of the information would interfere with the investigation. Based upon this representation, we conclude the release of the responsive 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).

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). See also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include dates of birth or motor vehicle record information encompassed by section 552.130 of the Government Code. See ORD 127 at 3-4. Accordingly, with the exception of basic information, which must be released, the department may withhold the submitted responsive information under section 552.108(a)(1) 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,



Kaelan A. Henze
Assistant Attorney General
Open Records Division

KAH/gw

Ref: ID# 685307

Enc. Submitted documents

c: Requestor
(w/o enclosures)