



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 30, 2018

Ms. Kristie L. Lewis
Staff Attorney
City of Houston Police Department
1200 Travis, 21st Floor
Houston, Texas 77002-6000

OR2018-02070

Dear Ms. Lewis:

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# 693283 (ORR No. 17-10191).

The Houston Police Department (the "department") received a request for information pertaining to a specified incident. You claim 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.


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). 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, 710 (Tex. 1977). The department states the submitted information is excepted from disclosure under section 552.108(a)(1) because it pertains to a criminal investigation that is inactive pending additional leads. However, we note the submitted information pertains to the investigation of an alleged aggravated assault with a deadly weapon. *See* Penal Code § 22.02(a)(2) (aggravated assault). The statute of limitations for aggravated assault with a deadly weapon is three years from the date of the offense. *See* Crim. Proc. Code art. 12.01(7) (felony indictments must be

presented within three years). More than three years have elapsed since the underlying incident for the alleged aggravated assault occurred. The department does not inform us any criminal charges were filed within the applicable limitations period. Accordingly, we find the department has failed to demonstrate the release of the submitted information would interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the department may not withhold the submitted information under section 552.108(a)(1) of the Government Code. The department must release the submitted information.¹

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# 693283

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the requestor has a right of access to some of the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Thus, the department must again seek a decision from this office if it receives another request for the same information from another requestor.