



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 29, 2019

Ms. Tiffany Bull
Assistant City Attorney
City of Grand Prairie
317 College Street
Grand Prairie, Texas 75050

OR2019-02665

Dear Ms. Bull:

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# 750468 (Ref. No. GPCA 18-0075).

The Grand Prairie Police Department (the "department") received a request for all information pertaining to a specified police report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note the submitted information includes documents titled "Magistrate's Adult Warnings" and "Election of Counsel" which are magistrate-signed documents that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) requires disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under the Act or other law. Gov't Code § 552.022(a)(17). This information is expressly public under section 552.022(a)(17), and the department must release it unless it is confidential under the Act or other law. You raise

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

section 552.108 of the Government Code for this information. However, this is a discretionary exception to disclosure that protects the governmental body's interests and does not make information confidential under the Act or other law. *See id.* § 552.007; Open Record Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Accordingly, the department may not withhold the magistrate-signed documents under section 552.108 of the Government Code. As no other exceptions to disclosure are raised, the court-filed documents must be released pursuant to section 552.022(a)(17) of the Government Code. However, we will address your argument against disclosure of the remaining information.

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 remaining information relates to an ongoing investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation and our review, 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). Therefore, you may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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 186-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

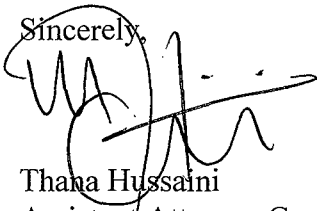
In summary, the department must release documents titled “Magistrate’s Adult Warnings” and “Election of Counsel” pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

²As our ruling is dispositive, we need not address your remaining argument under section 552.130 of the Government Code, except to note that basic information described in *Houston Chronicle* does not include information subject to section 552.130.

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,

A handwritten signature in black ink, appearing to read 'Thana Hussaini', is written over the word 'Sincerely,'. The signature is stylized and somewhat cursive.

Thana Hussaini
Assistant Attorney General
Open Records Division

TH/mo

Ref: ID# 750468

Enc. Submitted documents

c: Requestor
(w/o enclosures)