



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 19, 2019

Ms. Julie Pandya Doshier
Counsel for the City of Farmers Branch
Nichols, Jackson, Dillard, Hater & Smith, LLP
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201

OR2019-26287

Dear Ms. Doshier:

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# 786777 (Reference No. 109425).

The City of Farmers Branch (the "city"), which you represent, received three requests from the same requestor pertaining to a specified incident involving a named individual and a named city police officer. You state the city will redact information pursuant to section 552.136 of the Government Code.¹ You also state you will redact information pursuant to the previous determination in Open Records Decision No. 684 (2009).² You state you will redact information subject to section 552.117(a)(2) of the Government Code in accordance with Open Records Decision No. 670 (2001).³ You claim the submitted information is

¹ Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

² Open Records Decision No. 684 is a previous determination authorizing all governmental bodies to withhold certain categories of information, including e-mail addresses of members of the public subject to section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

³ Open Records Decision No. 670 authorizes all governmental bodies to withhold the current and former home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of peace officers under section 552.117(a)(2) of the Government Code without the necessity of requesting an attorney general decision. ORD 670 at 6.

excepted from disclosure under sections 552.101, 552.102, 552.103, 552.108, 552.1175, 552.130, and 552.140 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, a portion of which consists of a representative sample.⁴

Initially, we note the requestor specifically excluded dates of birth, social security numbers, motor vehicle record information, and any information pertaining to minors from her present requests. Thus, the portions of the submitted information that consists of this information are not responsive to the requests. This ruling does not address the public availability of any information that is not responsive to the requests, and the city is not required to release that information in response to the requests.⁵

Next, we note the submitted information includes an officer's Texas Commission on Law Enforcement ("TCOLE") identification number. Section 552.002(a) of the Government Code defines "public information" as the following:

[I]nformation 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

⁴ We 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 that those records contain substantially different types of information than that submitted to this office.

⁵ As our ruling is dispositive, we need not address your arguments against disclosure of this information.

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 the officer's TCOLE identification number is a unique computer-generated number assigned to peace officers for identification in TCOLE's electronic database, and may be used as an access device number on the TCOLE website. Thus, we find the officer's TCOLE number does not constitute public information under section 552.002 of the Government Code. Therefore, the officer's TCOLE number is not subject to the Act and need not be released to the requestor.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 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). Some of the submitted information consists of an internal investigation and of personnel documents of a city police officer. Section 552.108 is generally not applicable to internal investigations or personnel records that are purely administrative in nature and that do 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. 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 state the information you marked, including the internal investigation and personnel documents, relates to a pending criminal prosecution. Furthermore, the information at issue reflects the personnel file at issue relates to an officer involved in the matter giving rise to the pending criminal case. Based upon this representation, we conclude the release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See Houston Chronicle Publishing 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) of the Government Code is applicable to the information you marked and may be withheld on that basis.⁶ The city must release the remaining responsive 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.

⁶ As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,



Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/gw

Ref: ID# 786777

Enc. Submitted documents

c: Requestor
(w/o enclosures)