



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 5, 2019

Mr. Mark Kratovil
Assistant Criminal District Attorney
Tarrant County
401 West Belknap, 9TH Floor
Fort Worth, Texas 76196-0201

OR2019-31057

Dear Mr. Kratovil:

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# 802654.

The Tarrant County Criminal District Attorney's Office (the "district attorney's office") received a request for information pertaining to a specified report number. 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.

Initially, we note some of the submitted information is subject to section 552.022 of the Government Code. Section 552.022(a) provides, in relevant part:

(a) [T]he following categories of information are public information and not excepted from required disclosure unless made confidential under this chapter or other law:

...

(17) information that is also contained in a public court record[.]

Gov't Code § 552.022(a)(17). The submitted information contains court-filed documents subject to section 552.022(a)(17) of the Government Code. The district attorney's office

must release this information pursuant to section 552.022(a)(17), unless it is made confidential under the Act or other law. *See id.* You seek to withhold this information under section 552.108 of the Government Code. However, this section is discretionary and does not make information confidential under the Act. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver); *see also* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions). Therefore, the district attorney's office may not withhold the information at issue under section 552.108. However, we will address your assertion of section 552.108 for the information not subject to section 552.022(a)(17).

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). A governmental body claiming section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *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 information at issue relates to an open criminal investigation. You contend release of the information at issue would interfere with the detection, investigation, or prosecution of crime. Based upon your representation and our review, we conclude release of the information at issue will 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, we conclude section 552.108(a)(1) is applicable to the information not subject to section 552.022(a)(17).

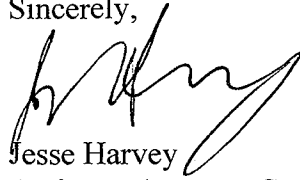
However, we note section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the district attorney's office may withhold the information not subject to section 552.022(a)(17) of the Government Code under section 552.108(a)(1) of the Government Code.

In summary, the district attorney's office must release the information we marked under section 552.022(a)(17) of the Government Code. With the exception of basic information, the district attorney's office may withhold the remaining 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 <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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JHI/jxd

Ref: ID# 802654

Enc. Submitted documents

c: Requestor
(w/o enclosures)