



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 1, 2020

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540

OR2020-21970

Dear Ms. Pemberton:

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# 843533 (ID# W032584).

The City of Killeen (the "city") received a request for reports involving the requestor and a named individual. You state you released some information. 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.

We note the submitted information includes court-filed documents that are subject to section 552.022 of the Government Code. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,] unless the information is expressly made confidential under the Act or other law. Gov't Code § 552.022(a)(17). Although you raise section 552.108 of the Government Code for this information, this is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the city may not withhold the court-filed documents, which we have marked, under section 552.108. Because section 552.130 of the Government Code can make information confidential under the Act, we will address the applicability of this section to the information subject to section 552.022(a)(17). We will also address your argument against disclosure of the remaining information not subject to section 552.022(a)(17).

Section 552.108(a)(1) of the Government Code excepts from disclosure "[information 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 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 pertains to pending criminal investigations and prosecutions. Based on this representation, we conclude section 552.108(a)(1) is applicable to the remaining information. *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*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). Accordingly, with the exception of the court-filed documents we marked and basic information, the city may withhold the remaining information under section 552.108(a)(1).

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator’s or driver’s license or permit issued by an agency of this state or another state or country is excepted from public release. Gov’t Code § 552.130(a)(1). Accordingly, the city must withhold the information we have marked in the court-filed documents under section 552.130.

In summary, with the exception of the court-filed documents we marked and the basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. The city must withhold the information we marked in the court-filed documents under section 552.130 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,

Melanie Villars
Assistant Attorney General
Open Records Division

MJV/be

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Enc. Submitted documents

c: Requestor
(w/o enclosures)