



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 13, 2020

Ms. ML Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2020-25781

Dear Ms. Calcote:

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# 848403 (PIR# 20-2365).

The Texas Department of Public Safety (the “department”) received a request for all documents related to complaints regarding a specified license number. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions 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: (1) 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). Section 552.108 is generally not applicable to purely administrative records 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. Civ. 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). You state the information at issue relates to an

internal administrative investigation that resulted in a criminal investigation. You also state the criminal investigation is ongoing. Based upon these representations, 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). Thus, section 552.108(a)(1) is applicable to the information at issue.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” See 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 186-88; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold the information we indicated under section 552.108(a)(1) of the Government Code.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Section 552.101 encompasses information made confidential by other statutes, such as section 1702.084 of the Occupations Code. Subsection 1702.084(d) provides “[t]he department shall maintain the confidentiality of information regarding the identification of a complainant.” Occ. Code § 1702.084(d). You state the remaining information includes the identifying information of complainants against a licensee regulated by the department. Upon review, we agree the information at issue, which we indicated, consists of information regarding the identification of a complainant for purposes of section 1702.084(d). Accordingly, the department must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 1702.084 of the Occupations Code.

In summary, with the exception of basic information, which must be released, the department may withhold the information we indicated under section 552.108(a)(1) of the Government Code. The department must withhold the information we indicated under section 552.101 of the Government Code in conjunction with section 1702.084 of the Occupations Code. The department must release the remaining 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.

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,

James M. Graham
Assistant Attorney General
Open Records Division

JMG/gw

Ref: ID# 848403

Enc. Submitted documents

c: Requestor
(w/o enclosures)