



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 6, 2020

Mr. Robert Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2020-28016

Dear Mr. Ray:

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# 853545.

The Longview Police Department (the "department") received a request for the police report and autopsy report from a specified case. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information includes court-filed documents. 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). You seek to withhold the information at issue under sections 552.101 and 552.108 of the Government Code. However, section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Further, we note common-law privacy is not applicable to information contained in public court records. *See Star-Telegram v. Walker*, 834 S.W.2d 54 (Tex. 1992). Therefore, no portion of the court-filed documents, which we marked, may be withheld

¹ Although the department does not cite to section 552.107 of the Government Code in its brief, we understand the department to raise this exception based on its markings.

under section 552.108 or under section 552.101 in conjunction with common-law privacy. As you raise no further exceptions for this information, the department must release the information we marked pursuant to section 552.022(a)(17) of the Government Code.

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 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 inform us, and provide documentation showing, that the Gregg County District Attorney’s Office objects to the release of the remaining information because release would interfere with its pending criminal investigation. In addition, you state the department objects to release of the information at issue because release would interfere with the department’s ongoing criminal investigation. Upon review, we conclude release of the remaining information would interfere with the detection, investigation, or prosecution of crime. *Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, we find section 552.108(a)(1) is applicable to the remaining information.

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). We note basic information includes, among other items, the social security number of an arrestee, but does not include dates of birth or motor vehicle record information subject to section 552.130. *See* ORD 127 at 3-4. Accordingly, with the exception of the basic information, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.²

Section 552.147 of the Government Code excepts from disclosure the social security number of a living person. Gov’t Code § 552.147(a). Therefore, the department may withhold the social security numbers in the basic information under section 552.147 of the Government Code.

In summary, the department must release the information we marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of the basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing the basic information, the department may withhold social security numbers under section 552.147 of the Government Code.

² As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

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,

Michelle Garza
Assistant Attorney General
Open Records Division

MRG/gw

Ref: ID# 853545

Enc. Submitted documents

c: Requestor
(w/o enclosures)