



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 24, 2020

Ms. Gina Villarreal
Records Clerk
City of Aransas Pass
600 Cleveland Boulevard
Aransas Pass, Texas 78336

OR2020-29444

Dear Ms. Villarreal:

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# 854970.

The Aransas Pass Police Department (the "department") received two requests from the same requestor for information related to a particular incident, certain police officers, and specified policies. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.1175 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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). 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). In this instance, the submitted information contains personnel file records pertaining to the peace officers at issue and department policies and procedures. We note section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See*

¹ Although you do not raise section 552.101 of the Government Code in your brief, we understand you to assert this exception based on your arguments. Additionally, although you claim the information is excepted from disclosure under section 552.021 of the Government Code, we note this is not an exception to disclosure under the Act, but instead provides for the availability of public information. *See* Gov't Code § 552.021.

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). However, you indicate, and the submitted information demonstrates, this information is related to a pending criminal investigation. Therefore, we understand release of that information would interfere with the investigation. Based upon this representation, we conclude the release of the submitted information 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, the department may generally withhold the submitted information under section 552.108(a)(1) of the Government Code.

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 information held to be public in *Houston Chronicle Publishing 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). See also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.²

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,

Erin Groff
Assistant Attorney General
Open Records Division

EMG/jm

² As we are able to make this determination, we do not address the applicability of section 1701.661(a) to the submitted video recordings. See generally Occ. Code § 1701.661(a), (e). Additionally, as our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

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Enc. Submitted documents

c: Requestor
(w/o enclosures)