



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 16, 2022

Mr. Joe Zapata
Administrative Supervisor
Houston Police Department
1200 Travis, 10th Floor
Houston, Texas 77002-6000

OR2022-13894

Dear Mr. Zapata:

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# 947850 (ORR# P025995).

The Houston Police Department (the "department") received a request for information pertaining to the requestor. The department claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception 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 information at issue 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, 710 (Tex. 1977). The department states Exhibit 2 relates to pending criminal investigations. We note report number 908870 pertains to an alleged theft offense that occurred in 2018. The statute of limitations for the theft offense is two years from the date of the offense. *See* Penal Code § 31.03(e)(2)(A) (theft); *see also* Crim. Proc. Code art. 12.02 (indictment or information for Class B misdemeanor must be presented within two years). More than two years have elapsed since the events giving rise to the theft incident, and the department does not inform this office any criminal charges were filed within the limitations periods. Further, the department has not otherwise demonstrated release of the information at issue would interfere with the detection, investigation, or prosecution of crime. Therefore, we find the department has not demonstrated the applicability of section 552.108(a)(1) of the Government Code to this report and may not withhold it on that basis. Nevertheless, we conclude the release of the

remaining information in Exhibit 2 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we agree section 552.108(a)(1) is applicable to this information.

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The department asserts the remaining information pertains to cases that concluded in results other than conviction or deferred adjudication. Therefore, we agree section 552.108(a)(2) is applicable to this information.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in the *Houston Chronicle* decision, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle* decision). Thus, with the exception of report number 908870 and the basic information in the remaining reports, which the department must release, the department may withhold the information in Exhibit 2 under section 552.108(a)(1) of the Government Code and the remaining information under section 552.108(a)(2) of the Government Code.¹

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 L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/be

¹ Because the requestor has a special right of access to some of the information being released, the department must again seek a decision from this office if it receives a request for the same information from another requestor.

Ref: ID# 947850

Enc. Submitted documents

c: Requestor
(w/o enclosures)