



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 31, 2022

Ms. Megan R. Santee  
Counsel for the City of Santa Fe  
Denton, Navarro, Rocha, Bernal & Zech, P.C.  
2517 North Main Avenue  
San Antonio, Texas 78212-4685

OR2022-26600

Dear Ms. Santee:

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# 967073 (PIA 22-192).

The Santa Fe Police Department (the "department"), which you represent, received four requests from the same requestor for the following categories of information: (1) body worn camera and dashboard camera recordings pertaining to fourteen specified reports during a stated period of time; (2) information pertaining to case numbers 201051 and 200676 involving the requestor; (3) information pertaining to thirteen specified addresses during a stated period of time; and (4) communications with specified entities and named individuals pertaining to case numbers 201051 and 200676.<sup>1</sup> You state the department does not have information responsive to the first request for information.<sup>2</sup> You also state the department will rely on Open Records Letter Nos. 2022-23809 (2022) and 2022-12739 (2022) and

---

<sup>1</sup> You state, and provide documentation demonstrating, the department sought and received clarification of the information requested. See Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *City of Dallas v. Abbott*, 304 S.W.3d 380 (Tex. 2010) (holding when governmental entity, acting in good faith, requests clarification of unclear or overbroad request for public information, ten-business-day period to request attorney general opinion is measured from date request is clarified or narrowed).

<sup>2</sup> The Act does not require a governmental body to release information that did not exist when it received a request, create responsive information, or obtain information that is not held by the governmental body or on its behalf. See *Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

withhold or release some of the requested information in accordance with those rulings.<sup>3</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note some of the submitted reports, which we have marked, are not responsive to the present requests for information because, although they involve the addresses specified in the third request for information, they do not pertain to incidents that occurred during the time period specified in that request. This ruling does not address the public availability of any information that is not responsive to the requests and the department is not required to release such information in response to the present requests.<sup>4</sup>

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in 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.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the responsive information pertains to concluded criminal investigations that did not result in convictions or deferred adjudications. Based on this representation and our review, we agree section 552.108(a)(2) 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.” 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). We note basic information includes, among other items, a detailed description of the offense and the identities of the complainants, but does not include dates of birth, telephone numbers, or motor vehicle record information encompassed by section 552.130 of the Government Code. You assert the department need not release basic information in this instance on the basis of the decision in *City of Carrollton v. Paxton*, 490 S.W.3d 187 (Tex. App.—Austin 2016, pet. denied). The court in *Carrollton* stated “there can be no ‘basic information’ subject to disclosure under [section 552.108(c)] unless there has been ‘an arrest’ or ‘a crime[,]’ [which] would require, in the very least, some sort of determination by law enforcement that a crime has actually occurred, if not also an arrest made, similar to the circumstances addressed in *Houston Chronicle*.” *Id.* at 200. Upon review, we agree the department may withhold the reports we have marked in their entirety under section

---

<sup>3</sup> *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

<sup>4</sup> As we are able to make this determination, we need not address your arguments against disclosure of this information.

552.108(a)(2) of the Government Code.<sup>5</sup> However, we find you have failed to demonstrate the court's decision in *Carrollton* is applicable to the remaining responsive report, and the department may not withhold the basic information within it under section 552.108(a)(2) on the basis of *Carrollton*. Thus, with the exception of the basic information, which must be released, the department may withhold the remaining responsive information under section 552.108(a)(2) of the Government Code.<sup>6</sup>

In summary, the department may withhold the reports we have marked in their entireties under section 552.108(a)(2) of the Government Code. With the exception of the basic information, which must be released, the department may withhold the remaining responsive information under section 552.108(a)(2) 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,

Blake Brennan  
Assistant Attorney General  
Open Records Division

BBX/mo

Ref: ID# 967073

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>5</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<sup>6</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.