

From: Carlos León

May 1, 2017

To: Assistant Police Chief Troy Gay
Austin Police Department

29-Page document for
~~the~~ official record of Public Safety
Commission meeting - 5/1/17

This affidavit reports criminal actions by three public servants:

- 1) CAP METRO bus driver - Operator ID # 600084
- 2) MS. Gloria Barnes, Public Information Coordinator,
CAP METRO Transit Authority
- 3) MS. Renee Moore, Administrative Supervisor, Central Records,
Austin Police Department

that appear to be related.

On April 5, 2017 between 12:05 and 12:22 PM, Obese Black Female CAP METRO bus driver, Operator ID # 600084, committed unlawful restraint, official oppression, & abuse of official capacity while driving Route 19-Northbound at Stop #1864, per Texas Penal Codes 20.01 (1), (19); 20.02; 39.03 (a), (a2), (b); and 39.02 (a)(1,2). Her criminal actions were immediately documented in writing and turned in to CAP METRO's Transit Center at 209 W. 9th Street, Austin, TX 78701. See attached Complaint for details.

According to the testimony of a knowledgeable, experienced CAP METRO employee working at the in-person Customer Service window, that documented complaint was named report 15991-S3X9B1 by CAP METRO. On April 7, 2017, The bus video camera

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Recording evidence documenting Operator ID # 600084's criminal actions was officially requested in writing from CAP METRO per the Texas Public Information Act + Texas Open Records Act. (2 of 4)

The written request explicitly referenced report 15991-S3X9B1 which clearly & explicitly stated the date of the crimes, approximate time span of the crimes, the bus route number, and location of the crimes. Because that bus video camera recording evidence is non-responsive, basic, public information per the Texas Public Information Act + Texas Attorney General Paxton's Open Records Ruling 2016-10001 (see attached), it must be released the first time it is requested.

However, per her April 21, 2017 letter to me (see attached), Ms. Gloria Barnes, Public Information Coordinator, CAP METRO Transit Authority, intentionally did not release the requested video by intentionally & unnecessarily asking for clarification of identifying information already clearly written on the referenced complaint that CAP METRO named report 15991-S3X9B1, which Ms. Barnes explicitly referenced in her response.

Therefore, public servant Gloria Barnes is guilty of official misconduct by committing the offense of Tampering with a Governmental record by intentionally impairing its availability to harm me by disadvantaging my police report by its loss (nonavailability) - a State jail felony per Article 3.04 (A) of

The Texas Code of Criminal Procedure ~~and~~ and Articles 1.07(4)(37.10(a)(3), and 37.10(c)(1) of The Texas Penal Code.

MS. Barnes' criminal behavior echoes MS. Moore's. Per her April 3, 2017 letter to me, MS. Renee Moore, another public servant, ~~but~~ with the official title of Administrative Supervisor, Central Records, Austin Police Department, also committed a state jail felony by illegally withholding requested dashboard camera video evidence, ~~thereby~~ non-responsive, basic, public information that must be released, to defraud me and harm me by putting me at disadvantage at trial by the loss of evidence re: Case No. 8560652 for Ticket No. 14199822 for CAD # 170081471. See attached documentation for more details.

Bottom line, all three public servants committed official misconduct, official oppression, and abuse of official capacity, one by unlawful restraint, two by tampering with a governmental record.

Attached documentation:

- 1) ~~an~~ official complaint ~~on~~ Operator ID # 600084 for April 5, 2017, 12:05-12:22 PM, Rate 19-Northband, Stop # 1864, - labeled report 15991-S3X9B1 by CAP METRO;
- 2) MS. Gloria Barnes' April 21, 2017 letter to me re: Public Information Request # 2017-04-101

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3) a 3-page cover letter dated April 17, 2017 re: MS. Renee Moore's criminal actions

- 4) a 12-page packet containing for documents:
- Copy of the April 7, 2017 letter from ~~Mr.~~ Mr. Carlos León to MS. Renee Moore
 - Copy of MS. Moore's April 3, 2017 letter to Mr. Carlos León RE: ORR #3-06708 for 17-0081471
 - Copy of Open Records Letter NO. 2016-10001 from the Office of Attorney General Paxton
 - Copy of Mr. Carlos León's March 31, 2017 Open Records Request

Prosecute Operator ID# 6000084, MS. Gloria Barnes, and MS. Renee Moore to maximum extent Texas law allows.

Respectfully,
Carlos León
Carlos León

5439D

Criminal Complaint - Overview

DATE: 4/5/17

TIME: 12:05 - 12:22 PM

Route: 19 - Northbound

Location: W. 38th Station to Stop 1864

Operator ID: 600084

Report #: 15991-S3X9B1 (P.1 and pp. 3-9, in particular)

Obese Black Female driver (Operator ID 600084)

Committed unlawful restraint, per Texas Penal Code

20.01 (1)(A), & 20.02, Official oppression

Per Texas Penal Code 39.03 (a), (a2), (b), and

Abuse of official capacity per Texas Penal Code

39.02, when she refused to open the

doors ~~for~~ for Non-Black Male Passenger with

luggage to exit when he wanted at his

Chosen destination stop.

[Details to follow]

Aug Complaint

NAME: Mr. Anon & Mary
DATE:
TIME:

DATE: ~~4/4/17~~ 4/5/17

TIME: 12:05 - 12:22 pm

Bus #:

Route: 19 - Northland

Location: W. 38 Station to Stop 1864

Obese Black Female driver acted unprofessionally, ~~di~~ discourteously and unlawfully, violating CAP Metro policy + procedure, Austin Transportation Code 13-2-132, and Texas & U.S. Constitutional law.

Specifically when Non-Black Male Passenger with luggage boarded the bus, Black Female driver told him she needed him to flip up one of the front seats & keep his luggage out of the aisle. Her statements were ass-backwards & wrong because:

1) they were unnecessary, uninvited, & unwelcome;

2) she did not need him to flip up any of the front seats;

3) she did not need him to keep his luggage out of the aisle because CAP Metro's legal rule only requires that his luggage not block the aisle; as long as his luggage is in the aisle but does not block the aisle, ~~seems~~ he's following legal CAP Metro policy + procedure.

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his luggage was clearly pressed up against the edge of the seat & turned lengthwise so that there was plenty of room to ~~pass~~ pass by in the aisle so that his secured, attended luggage was not blocking the aisle;

In fact, CAP Metro policy & procedure tells Passengers to keep their belongings at their feet which means in the aisle so that they do not block the aisle.

4) Therefore, per reasons 1) - 3) Obese Black female driver tried unnecessarily & unlawfully restricting his liberty to choose where & how he placed his gear by ~~th~~ & trying to tell him where & how to place his luggage, though she is a public servant, per Texas Penal Code 1.07, meaning he tells her what to do, not the other way around.

5) Therefore, per reasons 1) - 4), driver tried making up & enforcing illegal, unconstitutional rules to confuse & control the Non-Black Male Passenger with luggage. She is paid to professionally & courteously serve. He no ~~to~~ Sharia law ~~on~~ on public transportation on AMERICAN soil in Austin, TX, USA.

Therefore, Non-Black Male Passenger with luggage did NOT follow driver's unlawful made-up bulcrap, but ~~she~~ followed CAP Metro policy & procedure and Texas/U.S. Constitutional law by ~~Securing~~ ^{Securing} & attending to his gear at his seat, without flipping up any seats. Then, after he was finished, he ~~re-established~~ re-established the true power relationship between Passenger & driver respectfully telling her to "now go ahead & ~~drive~~ drive."

All was fine until Stop 1864. About 1 1/2 blocks ahead of ~~the~~ time Non-Black Male Passenger with luggage pulled the cord/pushed the plastic strip/pushed the button to respectfully request ~~stop~~ Stop 1864 per CAP Metro policy. The bell ~~ring~~ the voice said "Stop Requested" and "Stop Requested" flashed across the silent radio screen facing the passengers in the cabin.

driver then stopped at Stop 1864 but did NOT open front or rear doors for Non-Black Male Passenger to exit, violating CAP Metro policy requiring driver to open ~~front or rear doors~~ front & rear doors.

front and rear doors as soon as she stops if it's safe to do so. In this case, there were no safety impediments or issues stopping her from opening front &

doors, so she should have opened them immediately.

Worse, after ~~after~~ 2-3 seconds, she then started pulling away from stop 1864, without opening the doors.

Therefore, Non-Black Male Passenger with luggage immediately & loudly told her "You have to open the doors!", following AP Metro policy & procedure & Texas/U.S. Constitutional law. However driver refused to open front or rear doors & just stopped there in the roadway. Then she started pulling away again.

AT THAT POINT, Non-Black Male Passenger with luggage demanded she open the doors right now because "she was breaking the law by committing unlawful restraint per Texas Penal Code 20.01 & 20.02."

However she continued refusing to follow Austin Transportation Code or Texas/U.S. Constitutional law, by continuing to refuse to open the doors.

Therefore, ~~passenger~~^{he} told her she was on video and ~~the~~ told passengers to call Austin Police Department to arrest her for unlawful restraint.

She ~~then~~ then ~~told~~ told him
he was on probation + would be kicked
off the bus for causing problems.
However, that's all wrong + more lies +
bullcrap from a ~~driver~~ driver who
should have already been fired for her
unlawful behavior.

Non-Black Male Passenger with
luggage has done what he ~~was~~ was
supposed to, following GAP Metro policy +
procedure + Texas/U.S. Constitutional law.

It's the driver who's got to go.

This Standoff continued without any physical
contact between Passenger + driver, until
driver finally opened the front doors ~~and~~
while appearing to talk to dispatch, on
the phone.

Then when Non-Black Male Passenger with
luggage was exiting the bus. Though the
front doors, he stopped, looked driver
directly in the eye + told her he was
going to the police to file a report
against her so he could press charges
against her.

She couldn't handle that, so she started shouting
at him + repeatedly telling him to
get off "her" bus. So ~~the~~ he did not
immediately exit; telling her "You are a public

Servant. You ~~do~~ not tell me what to do."

She couldn't handle that truth, either so she kept shouting at him & then rudely pointed a finger at him while she repeatedly kept ~~that~~ telling him to get off the bus.

So, he defended himself from her ~~verbal attack~~ ~~attack~~ by pointing three fingers back at her & again telling her what her legal role & status was as driver while not moving an inch.

Finally he decided to fully exit the bus with his gear, ~~to~~ which he did.

~~Conclusion~~

Legal Analysis

~~Unlawful Restraint~~

Per Texas Penal Code 20.01 (1)(A), & 20.02 a person commits an offense if he intentionally or knowingly restrains another person. "Restrain" means to restrict a person's movements without consent, so as to interfere substantially with the person's liberty. That liberty interference is by moving the person from one place to another or by confining the person.

Therefore, Obese Black Female driver unlawfully restrained Non-Black Male Passenger with luggage

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when she restricted his movements without consent, so as to interfere substantially with his liberty by moving him from his destination stop to somewhere else past his stop and by confining him in the bus cabin.

Official Oppression

Per Texas Penal Code 39.03 (a), (a2), (b), a public servant acting under color of his office or employment commits an offense if he intentionally denies or impedes another in the exercise or enjoyment of any right, knowing his conduct is unlawful. A public servant acts under color of his office or employment if he acts or purports to act in an official capacity or takes advantage of such actual or purported capacity.

Because CAP METRO is a governmental unit, CAP METRO employees are public servants, per Texas Penal Code 1.07.

Therefore, Obese Black Female driver, a public servant acting under color of her employment, committed an offense of official oppression by intentionally denying or impeding Non-Black Male Passenger with luggage in the exercise or enjoyment of his right to freely exit the bus at his destination stop.

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Therefore by depriving him of his liberty driver violated the Due Process clause in the U.S. Constitution's 5th Amendment, which says, "No person shall be deprived of liberty without due process of law," The U.S. Constitution's 14th Amendment, which says, "No State shall deprive any person of liberty without due process of law," and Texas Constitution's Art. I, Section 19, which says, "No citizen of this state shall be deprived of liberty or in any manner disenfranchised, except by the due course of the law of the land."

She also violated the Equal Protection clause in the U.S. Constitution's 14th Amendment, which says "No State shall deny to any person within its jurisdiction the equal protection of the laws." because driver was not observed unlawfully restraining anyone else.

Abuse of official capacity

Per Texas Penal Code 39.02 (a)(1,2), a public servant commits an offense if, with intent to harm or defraud another, he intentionally or knowingly violates a law relating to the public servant's office or employment; or misuses government personnel. Per Texas Penal Code 1.07 (2c) "harm" means anything reasonably regarded as loss.



Capital Metropolitan Transportation Authority
2910 East Fifth Street | Austin, Texas 78702
TEL 512.389.7400 | FAX 512.369.6596 | capmetro.org

April 21, 2017

Carlos Leon
Capital Metro Transit Center
209 W. 9th Street
Austin, TX 78701

VIA: INTEROFFICE MAIL

Re: Public Information Request #2017-04-101

Dear Mr. Leon:

This letter is in response to your Public Information Request which was received by Capital Metropolitan Transportation Authority ("Capital Metro") on April 7, 2017. You requested the following information:

- *The bus video footage documenting what transpired in report #15991-S3X9B1, including audio, when operator ID #600084 said what she said and did what she did. Include driver's response and Cap Metro's response.*

Capital Metro seeks clarification of your request under §552.222(b), Texas Government Code. If by the 61st day after the date of this letter you do not submit a written response to this request for clarification, your request will be deemed withdrawn.

In order to search for the responsive information, please provide the following: ...date of the incident, time, location, bus number, route number and any other information that will clarify your request.

Please note, video footage is overwritten in the normal course of operation after a brief period of time unless there has been a timely request to preserve the footage either internally or by a member of the public or law enforcement. Video from these bus routes may have been overwritten 72 hours prior to receipt of your initial request.

Additionally, the above address seems to be the address of the Capital Metro Transit Center, therefore, in the future, please provide an alternative address for Capital Metro to provide responses to you in a timely manner.

Please be advised that there may be a fee to provide the information you have requested. Please be advised that there are 10 business days from the date of receipt of your clarification, in which your request is to be provided. I will contact you with an estimate of costs once the information has been identified.

If you have any questions regarding this matter, please contact me at (512) 369-6560 or by e-mail at gloria.barnes@capmetro.org.

Sincerely,

Gloria E. Barnes
Public Information Coordinator

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Carlos León

April 17, 2017

Cover Letter

Per the Texas Public Information Act & Texas Attorney General Paxton's Open Records Ruling in Letter NO. 2016-10001 (2016), Austin Police Department's Central Records must release non-responsive basic information, like a dashboard camera video recording, in a timely manner.

However, per Administrative Supervisor Renee Moore's Signed April 3, 2017 letter to me, Ms. Moore tried to gaslight me by unlawfully withholding requested dashboard camera video evidence by intentionally disobeying Texas law & Paxton's ruling to intentionally misapply previous determination by oppositely & wrongly labeling the requested dashboard camera video recording evidence responsive, though she claims to have relied upon Paxton's Open Records Letter NO. 2016-10001 (2016) to respond to my legal request.

Similarly, Ms. Moore's letter also references requesting the information a second time so that the department must request a ruling from The Office of the Attorney General in order to withhold the requested information,
(1 of 3)

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which is ass-backwards & unnecessary because per Texas law and Attorney General Paxton's explicit ruling in Open Records Letter no. 2016-10001 (2016), Ms. Moore MUST release the requested information by the deadline triggered by my first request.

Therefore, the attached 12-page packet contains the following documents:

- 1) A copy of the April 7, 2017 letter from Mr. Carlos León to Ms. Renee Moore - Administrative Supervisor, Central Records, Austin Police Department - documenting her blatant & intentional misapplication of previous determination to unlawfully withhold non-responsive, basic information dashboards camera video evidence lawfully requested per the Texas Public Information Act, thereby committing official misconduct by allegedly tampering with a governmental record, committing official oppression, and abusing her official capacity.
- 2) A copy of Ms. Moore's April 3, 2017 letter to Mr. Carlos León RE: ORR #3-06708 for 17-0081471

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- 3) A copy of Open Records Letter NO. 2016-10001
- 4) A copy of Mr. Carlos León's March 31, 2017 Open Records Request

This cover letter and attached 12-page packet may be reproduced & disseminated to legally hold Ms. Renee Moore accountable for her official words & actions in the court of public opinion ~~and~~ and the Texas Judicial System.

In Jesus name,

Carlos León

Carlos León

Note to Prosecutor: "Intent to deceive" is a state of mind arising when a party acts with sufficient knowledge that what it is saying is not so and consequently that the recipient of its saying will be misled into thinking the statement is true - Forest Group, Inc. v. Bon Tool Co.

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Carlos León

April 7, 2017

To: Renee Moore

Follow: RE: ORR #3-06708 for 17-0081471

Ms. Moore,

Your April 3, 2017 letter to me (see attached) stated, "the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code - video recording(s)" because "we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request."

Open Records Letter No. 2016-10001 (2016) [see attached] issues a ruling, "which constitutes a previous determination allowing the department to withhold certain information under Section 552.108(a)(1) of the Government Code without the necessity of first requesting an attorney general decision."

However, that Open Records Letter also says Section 552.108 does not except from disclosure basic information

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basic information must be released. That Letter
15 basic information refers to the information held to
be public in the Houston Chronicle case (531 S.W. 2d
at 186-88). Per Houston Chronicle, "a detailed description
of the offense in question" is basic information (187).
Because you said there is no incident report, the
dashboard video camera evidence of my entire crossing of
Guadalupe at Maiden Lane constitutes a detailed description
of the offense in question.

Open Records Letter No. 2016-10001 (2016) agrees, saying
"the department may not rely on this previous determination
in response to requests in which basic information is not
responsive. For example, no basic information is at
issue in a request for only a dashboard camera video
recording... Thus, the department may not rely upon this
previous determination in response to those types of requests
Therefore, the dashboard camera video evidence I requested is
not responsive, meaning you falsely & oppositely labeled it
responsive in your letter to me.

Therefore, you blatantly misapplied the previous determination
standard to my legal request for the dashboard camera
video evidence from Officer McRay's vehicle showing my
entire crossing of Guadalupe at Maiden Lane for ———→ (2 of
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CAD # 170081471 that occurred on 01/08/17 that she claimed to have seen;

That Open Records Letter also says that "if the department is unsure as to the applicability of this previous determination to information responsive to a request for information, the department should request a ruling from this office."

Therefore, because you did not request a ruling from the Attorney General's office before wrongly denying my request for the dash cam video, you were not unsure about your denying action - evidence of your intent.

"Intent" is the purpose to use a particular means to effect a certain result (James Stewart & Co. v. Law). That is "intentional" which one does with knowledge of the facts (Atlantic Pipe Line Co. v. Brown County).

Texas Code of Criminal Procedure 3.04 (1) says "official misconduct" means an offense that is an intentional or knowing violation of a law committed by a public servant while acting in an official capacity as a public servant. Texas ~~Code~~ Penal Code 1.07 (41)(A) defines a public servant as a person employed as an employee of government. (3042)

[204127]

Ex 10 of 27
Texas Penal Code 37.10 (a)(3) says a person commits the offense of tampering with a governmental record if he (or she) intentionally conceals or otherwise impairs the availability of a governmental record. Texas Penal Code 37.10 (c)(1) says if the actor's intent is to defraud or harm another, the offense is a State jail felony. Texas Penal Code 1.07 (25) defines "harm" as anything reasonably regarded as loss, disadvantage, or injury.

Therefore, you allegedly are guilty of official misconduct by tampering with a governmental record by intentionally impairing the availability of the requested dashboard camera video to harm me by putting me at disadvantage at trial by the loss of evidence that is rightfully mine per the Public Information Act and Open Records Letter NO. 2016-10001 (2016). Your alleged official misconduct also includes official oppression and abuse of official capacity.

Per Texas Penal Code 39.03 (a), (a2), (b), a public servant acting under color of his (or her) office or employment commits an offense of official oppression if he (or she) intentionally denies or impedes another in the exercise of any right, knowing his conduct is unlawful. A public servant acts under color of his (or her) office or employment if he (or she) acts or purports to act in an official capacity.

Per Texas Penal Code 39.02 (a)(1,2), a public servant commits abuse of official capacity if, with intent to harm or defraud another, he (or she) intentionally or knowingly violates a law relating to the public servant's office or employment.

Because the department's use of previous determinations to block my request is false, the requirements of the Public Information Act apply, including Section 552.301 of the Government Code, and deadlines under the Act run from the date the department received the initial written request for information on March 31, 2017, Per Open Records Letter NO. 2016-10001 (2016),

In Jesus name,

~~Carlos León~~

Carlos León



City of Austin

Founded by Congress, Republic of Texas, 1839

Police Department, 715 East 8th Street, Austin, Texas 78701-3397 Telephone 512/974-5000

April 3, 2017

Carlos Leon

RE: ORR #3-06708 for 17-0081471

Dear Mr. Leon:

On March 31, 2017, we received your public information request dated March 31 for the incident report and dash cam video for the above-referenced incident involving you. In order to promote governmental efficiency and encourage the prompt release of information, as required by the Public Information Act, we have relied upon Open Records Letter No. 2016-10001 (2016) in responding to your request. We do so within five business days of your request.

The department has made a good faith determination the information you requested:

- deals with the detection, investigation, or prosecution of crime and the release of the records would interfere with the detection, investigation, or prosecution of an open or pending criminal matter.

This information is subject to Section 552.108(a)(1) of the Government Code. The Department has also determined you have not previously requested this information.¹ Therefore, pursuant to the previous determination granted by the Office of the Attorney General in Open Records Letter No. 2016-10001, the Department is releasing no information to you as there is no incident report, and is withholding the remaining responsive information subject to Section 552.108(a)(1) of the Government Code.

- Video recording(s)

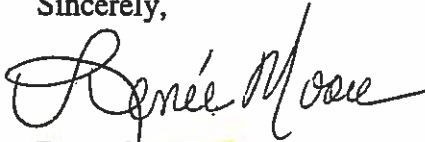
If you have questions regarding the use of this previous determination, please call the Department at 512-974-5117, or for more information concerning your rights and the responsibilities of the Department, please visit the Office of the Attorney General's website at <https://www.texasattorneygeneral.gov/og/information-about-552.108a1-previous-determinations>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839.

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Carlos Leon
April 3, 2017
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You may also review general information about the Public Information Act, including the types of information included in basic information, in the 2016 Public Information Handbook at http://www.texasattorneygeneral.gov/files/og/publicinfo_hb.pdf.

Sincerely,



Renee Moore
Administrative Supervisor
Central Records
Austin Police Department

¹If you request this information a second time, the department must request a ruling from the Office of the Attorney General (the "OAG") in order to withhold the information. See Open Records Letter No. 2016-10001.

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KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2016

Ms. Cary Grace
Assistant City Attorney
Law Department
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2016-10001

Dear Ms. Grace:

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# 609587 (PIR# 24692).

The Austin Police Department (the "department") received a request for a specified incident report.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim 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 . . . 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 reasonably 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). The department states the submitted information relates to an ongoing criminal investigation.

¹We note the department sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

Upon review, 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 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 submitted information.

Section 552.108, however, 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; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). Thus, 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.

Finally, the department asks us to issue a previous determination permitting the department to withhold information subject to section 552.108(a)(1) of the Government Code without the necessity of requesting an attorney general opinion. See *id.* § 552.301(a) (allowing governmental body to withhold information subject to previous determination); *Houston Chronicle v. Mattox*, 767 S.W.2d 695, 698 (Tex. 1989) (acknowledging this office has authority under section 552.301 of the Government Code to decide what constitutes a previous determination); Open Records Decision No. 673 (2001) (describing the two types of previous determinations). We note section 552.011 of the Government Code states "[t]he attorney general shall maintain uniformity in the application, operation, and interpretation" of the Act, chapter 552 of the Government Code. Gov't Code § 552.011. Pursuant to this legislative mandate, section 552.011 grants the attorney general the authority to "prepare, distribute, and publish any materials, including detailed and comprehensive written decisions and opinions, that relate to or are based on" the Act. *Id.* We further note the Act requires governmental bodies to promptly release public information requested under the Act within a reasonable time, without delay. *Id.* § 552.221(a); Open Records Decision No. 664 at 5 (2000).

With the foregoing in mind and upon due consideration, we issue this ruling, which constitutes a previous determination allowing the department to withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting an attorney general decision, so long as the department has not previously received a request for the information from the same requestor in the manner described below. See ORD 673. This decision is intended to encourage the prompt release of requested public information by increasing the efficiency of the review process under the Act by clearly identifying information the department may withhold under the circumstances delineated below. See Gov't Code §§ 552.011, .221; Open Records Decision Nos. 684 (2009), 673.

Accordingly, the department may withhold certain information under section 552.108(a)(1) of the Government Code without the necessity of first requesting a ruling from this office in the following circumstances:

1. the department makes a good faith determination that the information at issue relates to the detection, investigation, or prosecution of crime, and the release of the information would interfere with the detection, investigation, or prosecution of an open or pending criminal matter;
2. the department will release at least the basic information about an arrested person, an arrest, or a crime (the "releasable information") from the requested information;
3. the department will produce the releasable information to the requestor pursuant to the requirements of the Act within five business days after the date the request for information was received;
4. the department will provide the requestor with the notice included in Appendix A of this ruling when the department responds to the request pursuant to the requirements of this previous determination; and
5. the department has not previously received a request for the same information from the same requestor after the department has provided the requestor with the releasable information.

See Gov't Code § 552.011. If any of the above circumstances change—or any other law, facts, or circumstances involving the requestor or the status of the requested information changes—the department may not rely upon this ruling as a previous determination to withhold the information at issue. See ORD 673 at 7. Additionally, the department may not rely on this previous determination in response to requests in which basic information is not responsive. For example, no basic information is at issue in a request for only a dashboard camera video recording or 9-1-1 call audio recording. Thus, the department may not rely upon this previous determination in response to those types of requests. Furthermore, this previous determination does not apply to situations in which other law may require some or all of the information at issue to be disclosed. See, e.g., Crim. Proc. Code arts. 2.139 (detailing right of access to videos made in connection with various types of driving while intoxicated offenses), 2.29 (detailing right of access to written report to law enforcement agency of alleged violation of Penal Code section 32.51); Gov't Code §§ 411.081-.1410 (detailing rights of access to criminal history record information), 560.002(1)(A) (detailing rights of access to fingerprints and other biometric identifiers); Transp. Code §§ 550.065 (detailing rights of access to crash report forms), 724.018 (detailing right of access to blood or breath specimen analysis results). We also note this previous determination does not permit the disclosure of basic information in those instances in which the entirety of the information at issue must be withheld. See, e.g., Fam. Code §§ 58.007 (detailing circumstances under which certain information related to juvenile offenders must be withheld in its entirety), 261.201 (detailing circumstances under which certain information related to investigations of child abuse or neglect must be withheld in its entirety); Open Records Decision No. 393 (1983) (stating, because the identifying information of a sexual assault

victim was inextricably intertwined with other releasable information, the governmental body was required to withhold the information in its entirety). We further note this previous determination does not permit the department to withhold citations; DIC-24 statutory warnings; DIC-25 notices of suspension; criminal trespass warnings; notices of code violations; triplicate forms; or information subject to section 552.007 or section 552.022 of the Government Code, other than information subject to section 552.022(a)(1). See Gov't Code §§ 552.007, .022(a)(1)-(18), .108(a)(1). However, the use of this previous determination does not preclude the department from withholding information pursuant to other statutory authority or previous determinations that apply to the department. See, e.g., *id.* §§ 552.1175(f), .130(c), .136(c), .147(b); ORD 684.

If the department's use of this previous determination does not fall within all of the circumstances delineated above, the requirements of the Act apply, including section 552.301 of the Government Code, and deadlines under the Act run from the date the department received the initial written request for information. See Gov't Code § 552.301(a); *Mattox*, 767 S.W.2d at 698. Consequently, misapplication of this previous determination may result in the presumption the requested information is public. See Gov't Code § 552.302. Thus, if the department is unsure as to the applicability of this previous determination to information responsive to a request for information, the department should request a ruling from this office. Additionally, this office may modify or withdraw this previous determination for any reason, including, but not limited to, misapplication of this previous determination. See *id.* § 552.011; *Mattox*, 767 S.W.2d at 698; see also Open Records Decision Nos. 485 at 3 (1987), 673 at 5. Finally, if the department later requests a ruling from this office in response to a second request for the same information from the same requestor, the department should notify this office it relied upon this previous determination in its response to the initial request.

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 <http://www.texasattorneygeneral.gov/open/orl/ruling/info.shtml>, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

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Incident Date: 01/08/11

Location: Maiden Ln +

Guadalupe

OPEN RECORDS REQUEST

Incident Type: Pedestrian Stop

Date of Request: 3/31/17

Approximate time: Late evening

I hereby request the full report for incident no. CAD# 170081471 that occurred on 01/08/17.

Name:

Carlos León

RECD BY

MP7363

3/31/17

14:23

Mailing Address:

Email:

Phone No:

Fax No:

- REFUSED TO GIVE

ADDRESS & PHONE #

I would like my report to be:

mailed
faxed
picked up

☐
☐
☒

by me, in person only

Signature

Additional Comments:

In addition to the full report required by Texas Code of Criminal Procedure 2.133 (b), I request the dashboard camera video from Officer Mcloy's (#7553) vehicle showing the entire Pedestrian crossing of Guadalupe that

NOTE: Requested information cannot be emailed.

She claimed, on record, to have seen the vehicle.

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