



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 24, 2016

Ms. Josette Flores
Assistant City Attorney
City of El Paso
P. O. Box 1890
El Paso, Texas 79950

OR2016-04414

Dear Ms. Flores:

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# 600588 (Case# 15-1006-572).

The City of El Paso (the "city") received a request for an entire fatal packet related to a specified incident, including but not limited to, all written reports, photographs, diagrams, field notes, video recordings, audio recordings, witness statements, toxicology reports, floor plan diagram, and inspection records. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and have reviewed the submitted information.

Section 552.108(a)(1) 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 reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1),

¹Although you also raise section 552.101 of the Government Code in conjunction with common-law and constitutional privacy, you have provided no arguments explaining how section 552.101 is applicable to the submitted information. Therefore, we assume you no longer assert section 552.101. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 709-10 (Tex. 1977). We note that for purposes of section 552.108, the arson investigation division of a fire department is considered a law enforcement unit. *See Open Records Decision No. 127 at 8 (1976)*. You state the submitted information relates to a criminal investigation that is pending. 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, section 552.108(a)(1) is applicable to the submitted 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). Thus, with the exception of the basic information, the city 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 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,



Kavid Singh
Assistant Attorney General
Open Records Division

KVS/eb

²As our ruling is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 600588

Enc. Submitted documents

c: Requestor
(w/o enclosures)