



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 4, 2017

Mr. John A. Haislet
Senior Assistant City Attorney
City of College Station
P. O. Box 9960
College Station, Texas 77842

OR2017-00137

Dear Mr. Haislet:

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# 646893 (City File Number 16-1064).

The City of College Station (the "city") received a request for information pertaining to a specified incident. You state you have released a portion of the requested information. 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released).

Initially, we note the requestor argues the responsive information must be released pursuant to section 552.022(a)(1) of the Government Code. Section 552.022(a)(1) provides for the required public disclosure of "a completed report, audit, evaluation, or investigation made of, for, or by a governmental body[.]" unless it is excepted by section 552.108 of the Government Code or "made confidential under [the Act] or other law[.]" *Id.* § 552.022(a)(1). The city states the incident is subject to a pending investigation. Upon review, we find this information is not a completed report, audit, evaluation, or investigation made of, for, or by a governmental body, as contemplated by section 552.022(a)(1). Accordingly, the responsive information need not be released pursuant to section 552.022(a)(1) of the Government Code.

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] 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). You state release of the submitted information will interfere with a pending criminal investigation and prosecution. Based on this representation, we conclude section 552.108(a)(1) is generally applicable in this instance. *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). Therefore, the city may 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.” *Id.* § 552.108(c). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

Finally, we must address the requestor’s contention that section 552.023 of the Government Code applies in the present situation. Under section 552.023, a person or a person’s authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect the person’s privacy interests. Gov’t Code § 552.023(a). However, section 552.023 does not apply where interests other than the person’s privacy are being protected. *See* Open Records Decision No. 565 (1990) (provisions of Medical Practices Act making medical records confidential are intended to protect more than just the privacy interests of the patient). In this instance, the information at issue may be withheld under section 552.108 of the Government Code, which protects law enforcement interests rather than privacy rights. Therefore, section 552.023 does not apply, and the requestor does not have a special right of access to the information subject to section 552.108.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) 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 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,



Jesse Harvey
Assistant Attorney General
Open Records Division

JH/bw

Ref: ID# 646893

Enc. Submitted documents

c: Requestor
(w/o enclosures)