



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 21, 2017

Ms. Dawn Roberts  
Assistant City Attorney  
Legal Division  
City of Arlington  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2017-16347

Dear Ms. Roberts:

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# 666930 (Internal Ref. No. 37648).

The Arlington Police Department (the "department") received a request for 9-1-1 call information pertaining to a specified incident. 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.

Initially, we note the submitted information may have been the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2016-12797 (2016). In Open Records Letter No. 2016-12797, we determined the department failed to comply with section 552.301 of the Government Code for the information at issue and concluded the department must (1) withhold all living public citizens' dates of birth under section 552.101 of the Government Code in conjunction with common-law privacy; (2) withhold certain information under section 552.130 of the Government Code, and (3) release the remaining information. To the extent the submitted information is identical to the information previously requested and ruled upon by this office in the prior ruling, the department must continue to rely on that ruling as a previous determination and withhold or release the submitted information in accordance with that ruling. *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 information is or is not excepted from disclosure). However, you seek to withhold the submitted information under section 552.108 of the Government Code. We note section 552.007 of the Government Code provides that, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, to the extent the information we previously ordered the department to release is identical to the submitted information, the department may not now withhold the previously released information unless its release is expressly prohibited by law. Because section 552.108 does not prohibit the release of information or make information confidential, the department may not now withhold any previously released information under this exception. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). However, we will address your argument under section 552.108 for any submitted information not subject to the prior ruling.

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). Generally, a governmental body claiming section 552.108(a)(1) must 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, 710 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. 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, 186-87 (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, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, section 552.108(a)(1) 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 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, to the extent the submitted information was not previously ruled upon in Open Records Letter No. 2016-12797, except for the basic information, the

department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2016-12797, the department must continue to rely on that ruling as a previous determination and withhold or release the submitted information in accordance with that ruling. To the extent the submitted information was not previously ruled upon in Open Records Letter No. 2016-12797, except for the basic information, which must be released, the department 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](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,



Cole Hutchison  
Assistant Attorney General  
Open Records Division

CH/sb

Ref: ID# 666930

Enc. Submitted documents

c: Requestor  
(w/o enclosures)