



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 16, 2017

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

OR2017-26226

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# 684477.

The City of Cibolo (the "city"), which you represent, received a request for a specified incident report. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.1175, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions 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). 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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706, 710 (Tex. 1977). You state the submitted information relates to an ongoing 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*

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<sup>1</sup>Although you also raise section 552.117 of the Government Code for information at issue, we note section 552.1175 of the Government Code is the proper exception to raise for information the city holds in a non-employment capacity. *See* Gov't Code §§ 552.117, .1175.

*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). We note basic information does not include the identity of victims or witnesses who are not also the complainant or motor vehicle record information encompassed by section 552.130 of the Government Code. *Id.* However, basic information does include the address is the location of the crime, premises involved, or place of arrest. See ORD 127 at 3-4. Accordingly, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Portions of the basic information, which we have marked, relate to a peace officer and the information is not held in an employment capacity. Accordingly, to the extent the information we have marked relates an individual who has elected to restrict access to the information in accordance with section 552.1175(b) of the Government Code, the city must withhold the information we have marked under section 552.1175 of the Government Code.<sup>3</sup> See Open Records Decision No. 364 (1983). However, upon review, we find you have failed to demonstrate the remaining basic information is confidential under section 552.1175, and the city may not withhold it on that basis.

Section 552.101 of the Government Code excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

<sup>3</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find you have failed to demonstrate any portion of the remaining basic information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any portion of the remaining basic information under section 552.101 on that basis.

In summary, with the exception of basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing the basic information, the city must withhold the information we have marked under section 552.1175 of the Government Code, to the extent the information we have marked relates an individual who has elected to restrict access to the information in accordance with section 552.1175(b) 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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/tdw

Ref: ID# 684477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)