



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 10, 2018

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2018-00724

Dear Mr. Kopp:

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# 698093 (COSA File No. W195822).

The City of San Antonio (the "city") received a request for information pertaining to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the submitted information includes a court-filed document. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). We have marked the document that is subject to section 552.022(a)(17). Although you seek to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception and does not make information confidential under the Act. *See id.* § 552.007; Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such section 552.108 does not make information confidential for the purposes of section 552.022. Accordingly, the court document may not be withheld under section 552.108. As you raise no further exceptions to disclosure of this information, it must be released. However, we will address the applicability of section 552.108 to the remaining information, which is not subject to section 552.022.

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 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 the remaining information pertains to a pending investigation or prosecution. Based on your representation and our review, we find release of the remaining 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 remaining information.

However, 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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Basic information includes, among other items, the names of the arresting and investigating officers. *See* ORD 127 at 3-5. Accordingly, with the exception of basic information, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

The city seeks to withhold the name, badge numbers, and employee numbers of the investigating officers pursuant to section 552.152 of the Government Code, which provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 if, under the specific circumstances pertaining to the employee or officer, disclosure of the information would subject the employee or officer to a substantial threat of physical harm.

Gov’t Code § 552.152. You inform us the information you marked under section 552.152 relates to undercover officers. You assert release of this information would subject the officers to a substantial threat of physical harm. Based on your representations and our review, we conclude you have demonstrated release of the information at issue would subject the officers to a substantial threat of physical harm. Therefore, the city must withhold the information you marked under section 552.152 of the Government Code.

In summary, the city must release the court filed document we marked pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, which

must be released, the city may withhold the remaining information under section 552.108(a)(1) of the Government Code. In releasing basic information, the city must withhold the information you marked under section 552.152 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,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 698093

Enc. Submitted documents

c: Requestor
(w/o enclosures)