



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 13, 2019

Ms. Eileen M. Hayman  
Counsel for the City of Breckenridge  
Messer, Rockefeller & Fort, P.L.L.C.  
500 Chestnut Street, Suite 1601  
Abilene, Texas 79602

OR2019-06957

Dear Ms. Hayman:

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# 754663.

The City of Breckenridge (the "city"), which you represent, received a request for information related to all calls for service to a specified address. The city claims the submitted information is excepted from disclosure under sections 552.107 and 552.108 of the Government Code. We have considered the exceptions the city claims 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). 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). The city states, and has provided documentation from the District Attorney for the 90th Judicial District demonstrating, the submitted information pertains to an active criminal investigation and future prosecution. Based on these representations, we conclude the release of the information at issue 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). We note basic information includes, among other items, the arrestee's name, age, and address; the names of arresting officers; the time of the arrest and the location of the incident; the charges; and a detailed description of the offense. See ORD 127 at 3-4. 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.

The city contends the basic information is protected by section 552.107(2) of the Government Code, which provides information is excepted from disclosure if "a court by order has prohibited disclosure of the information." Gov't Code § 552.107(2). The city has submitted a copy of a court order signed by Judge Stephen Bristow, District Judge for the 90th Judicial District Court in Stephens County, Texas, in a case styled *The State of Texas v. Paxton Lee Sullivan*.<sup>1</sup> The court order provides, in part, from the date the order was issued until the discharge of the trial jurors in the case, attorneys representing the State of Texas and the defendant, and "all prospective witnesses, including all law enforcement personnel, . . . from making and participating in making any extrajudicial statements . . . that relate to" specified matters. Order at 2-3, *State of Texas v. Sullivan* (90th Dist. Ct., Stephens Co., Tex., December 20, 2018). The city asserts the gag order prevents disclosure of the basic information. We note, however, the gag order forbids statements by certain individuals but does prohibit disclosure of any information. Further, we note the order states, "[n]othing in this [o]rder is intended to prevent any person from stating" the types of information that consist of the basic information listed above. Thus, upon review, we conclude the city has not established the gag order makes the basic information at issue confidential or prohibits the department from releasing any of the basic information. Therefore, we find the department may not withhold the basic information under section 552.107(2) of the Government Code.

In summary, with the exception of the basic information, which must be released, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

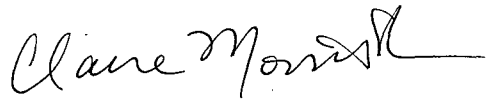
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<sup>1</sup>The city informs us a cause number has not been assigned to the case at issue because the arrestee has not yet been indicted.

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/eb

Ref: ID# 754663

Enc. Submitted documents

c: Requestor  
(w/o enclosures)