



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 12, 2019

Mr. Stephen D. Gates
First Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702

OR2019-15792

Dear Mr. Gates:

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# 770230 (ORR# M026173-032619).

The City of Midland (the "city") received a request for police calls and reports related to a specified offense and involving a named person at a specified address during a specified date range. You state the city has released some information. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) 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: (1) 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 information at issue 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 and prosecution, and release of the information would interfere with the investigation and prosecution of the case. Based on this representation, 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests 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, 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 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. Section 552.101 encompasses information protected by other statutes, such as chapter 57B of the Code of Criminal Procedure. Article 57B.02 of the Code of Criminal Procedure provides, in relevant part, that “[a] victim [of family violence] may choose a pseudonym to be used instead of the victim’s name to designate the victim in all public files and records concerning the offense, including police summary reports, press releases, and records of judicial proceedings.” Crim. Proc. Code art. 57B.02(b). In addition, article 57B.03 provides that:

(a) A public servant with access to the name, address, or telephone number of a victim 17 years of age or older who has chosen a pseudonym under this chapter commits an offense if the public servant knowingly discloses the name, address, or telephone number of the victim to any person who is not assisting in the investigation or prosecution of the offense or to any person other than the defendant, the defendant’s attorney, or the person specified in the order of a court of competent jurisdiction.

Id. art. 57B.03(a). You inform us, and provide documentation showing, that the victim in this matter elected to be designated by a pseudonym in accordance with chapter 57B of the Code of Criminal Procedure. Upon review, we find article 57B.03(a) of the Code of Criminal Procedure makes some of the basic information confidential. Accordingly, in releasing the basic information, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with article 57B.03(a) of the Code of Criminal Procedure. See Open Records Decision No. 584 (1991) (statute making release of information criminal offense deems information confidential by law for purposes of section 552.101). However, we conclude the remaining basic information is not confidential

¹As our ruling is dispositive, we need not address the remaining argument against disclosure of this information.

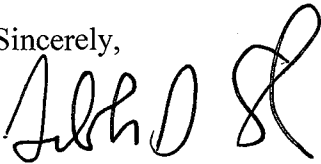
under article 57B.03(a), and thus, the city may not withhold any of the remaining basic information under section 552.101 of the Government Code on this basis.

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. In releasing the basic information, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with article 57B.03(a) of the Code of Criminal Procedure.

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,



Deborah Southerland
Attorney
Open Records Division

DS/gw

Ref: ID# 770230

Enc. Submitted documents

c: Requestor
(w/o enclosures)