



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

April 7, 2020

Mr. Thomas McMillian  
Assistant City Attorney  
City of Amarillo  
200 Southeast 3<sup>rd</sup> Avenue, 4<sup>th</sup> Floor  
Amarillo, Texas 79101

OR2020-10394

Dear Mr. McMillian:

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# 820558 (APD Request 20-136).

The Amarillo Police Department (the "department") received a request for information pertaining to an incident at a specified location involving three named individuals during a defined time period.<sup>1</sup> The department claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the department claims and reviewed the submitted information.

Initially, the department informs us report number 2020-0500818 was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2020-03857 (2020). In that ruling, we determined the department must (1) withhold some information under section 552.101 of the Government Code in conjunction with common-law privacy, (2) withhold some information under section 552.130 of the Government Code, and (3) release the remaining information. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, we conclude the department must rely on Open Records Letter

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<sup>1</sup> We note the department received an initial request for the same information from this requestor on January 13, 2020. In response to the initial request, the department informs us it released basic information for some of the responsive information to the requestor within five business days and withheld certain information under section 552.108(a)(1) of the Government Code, pursuant to the previous determination this office issued to the department in Open Records Letter No. 2019-05295 (2019). Subsequently, the requestor made a second request for the same information on January 15, 2020.

No. 2020-03857 as a previous determination and withhold or release report number 2020-0500818 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 that information is or is not excepted from disclosure).

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 department states report number 2020-0500740 pertains to an active criminal investigation or prosecution. Based on the department’s representation and our review, we conclude 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, we conclude section 552.108(a)(1) is applicable to report number 2020-0500740.

However, we note, and the department acknowledges, 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). Thus, with the exception of the basic information, the department may withhold report number 2020-0500740 under section 552.108(a)(1) of the Government Code.

In summary, the department must rely on Open Records Letter No. 2020-03857 as a previous determination and withhold or release report number 2020-0500818 in accordance with that ruling. With the exception of the basic information, which must be released, the department may withhold report number 2020-0500740 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable

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charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Gerald Arismendez  
Assistant Attorney General  
Open Records Division

GAA/rm

Ref: ID# 820558

Enc. Submitted documents

c: Requestor  
(w/o enclosures)