



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 27, 2020

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78207

OR2020-11867

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# 824228 (PIR No. W304611).

The City of San Antonio (the "city") received a request for information pertaining to the specified arrest of a named individual. 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.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information concerns a concluded investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) 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. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

Additionally, you argue some of the basic information is subject to section 552.152 of the Government Code and seek to withhold the identifying information of the undercover officers. Section 552.152 of the Government Code provides:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from [required public disclosure] 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 state the information you marked identifies undercover officers. You represent the release of the undercover officers' identities would subject the officers to a substantial threat of physical harm. Upon review, except for the information we marked for release, we find section 552.152 is applicable to the information you marked. Accordingly, except for the information we marked for release, the city must withhold the information you marked under section 552.152 of the Government Code. However, we find you have failed to demonstrate the release of the remaining information you marked would subject an employee or officer to a substantial risk of physical harm. Accordingly, the city may not withhold any of the remaining information you marked under section 552.152 of the Government Code.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing the basic information, except for the information we marked for release, 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 <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 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,

Britni Ramirez
Assistant Attorney General
Open Records Division

BR/rm

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Enc. Submitted documents

c: Requestor
(w/o enclosures)