



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

June 2, 2020

Ms. Stephanie Berry  
Assistant City Attorney  
City of Denton  
215 East McKinney Street  
Denton, Texas 76201

OR2020-15086

Dear Ms. Berry:

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# 833341 (ORR# R000341).

The City of Denton (the "city") received a request for information pertaining to a specified case number. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. We have considered the exceptions you claim 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). You state the submitted information relates to an active criminal investigation or prosecution. *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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable to the submitted information.

We note, 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 186-187; *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information considered to be basic information). 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.

You assert the basic information is confidential in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. In this instance, you seek to withhold the entirety of the basic information under section 552.101 in conjunction with common-law privacy. We note the requestor has a right of access to the otherwise private information pertaining to herself. *See* Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates the person or person's agent on ground that information is considered confidential by privacy principles); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Accordingly, the city may not withhold any portion of the basic information from this requestor under section 552.101 on the basis of common-law privacy.<sup>1</sup>

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.<sup>2</sup>

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,

Jesse Harvey  
Assistant Attorney General  
Open Records Division

JHI/rm

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<sup>1</sup>As our ruling is dispositive, we do not consider your remaining argument against disclosure of this information.

<sup>2</sup>We note the requestor has a right of access to the information being released. *See* Gov't Code § 552.023(a); Fam. Code § 261.201(k); ORD 481 at 4. Thus, the city must again seek a decision from this office if it receives another request for the same information from another requestor.

Ref: ID# 833341

Enc. Submitted documents

c: Requestor  
(w/o enclosures)