



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 17, 2022

Mr. Samuel R. Jimison
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2022-04833

Dear Mr. Jimison:

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# 932116 (ORR# DRui2 and DRui2).

The Corpus Christi Police Department (the "department") received two requests from the same requestor for information pertaining to a specified incident. The department claims some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code.¹ We have considered the claimed exceptions 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). The department states the information it has marked under section 552.108(a)(1) relates to a pending criminal investigation or prosecution. Based on this representation, we conclude the release

¹ We note the department did not comply with the requirements of section 552.301 of the Government Code in raising section 552.1315 of the Government Code. *See* Gov't Code § 552.301(b), (e). Nevertheless, section 552.1315 can provide a compelling reason to overcome the presumption of openness caused by a failure to comply with section 552.301.

of this information 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).

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 the *Houston Chronicle* decision. *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* decision). We note basic information includes a detailed description of the offense, the names of the arresting and investigating officers, but not badge numbers, and the identity of the complainant, but does not include the identity of the victim, unless the victim is the complainant. *See* ORD 127 at 3-4. We note some of the information that the department has marked under section 552.108(a)(1) consists of basic information. Thus, with the exception of basic information, the department may withhold the information it has marked under section 552.108(a)(1) of the Government Code.

Section 552.152 of the Government Code provides the following:

Information in the custody of a governmental body that relates to an employee or officer of the governmental body is excepted from the requirements of Section 552.021 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. The department represents release of the basic information that identifies an undercover officer would subject the officer to a substantial threat of physical harm. Upon review, we find the department has demonstrated release of the information at issue would subject the officer to a substantial threat of physical harm. Therefore, the department must withhold the identifying information of the undercover officer it has marked under section 552.152 of the Government Code.²

In summary, with the exception of basic information, the department may withhold the information it has marked under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the department must withhold the information it has marked under section 552.152 of the Government Code. The department must release the remaining information.

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.

² As our ruling is dispositive, we do not address the other argument of the department to withhold this information.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/jm

Ref: ID# 932116

Enc. Submitted documents

c: Requestor
(w/o enclosures)