



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 8, 2022

Ms. Victoria Hayslett
Assistant City Attorney
City of Austin
P.O. Box 1088
Austin, Texas 78767-8828

OR2022-19626

Dear Ms. Hayslett:

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# 958089 (PIR# C130193).

The City of Austin (the "city") received a request for all records involving the requestor, another named individual, a specified animal, or three specified addresses during a specified time period.¹ You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. Additionally, you state you notified the Travis County Attorney's Office (the "county attorney's office") of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released.² *See* Gov't Code § 552.304 (permitting interested third party to submit to attorney general reasons why requested information should or should not be released). We have considered the exception you claim and reviewed the submitted information.

¹ You indicate the city sent the requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor accepted the cost estimate. *See* Gov't Code § 552.2615. The estimate of charges required the requestor to provide a deposit for payment of anticipated costs under section 552.263 of the Government Code. *See id.* § 552.263(a). You state the city received the required payment on April 15, 2022. *See id.* § 552.263(e) (if governmental body requires deposit or bond for anticipated costs pursuant to section 552.263, request for information is considered to have been received on date governmental body receives bond or deposit).

² As of the date of this letter, we have not received any comments from the county attorney's office.

Initially, we note the submitted information contains court-filed documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of “information that is also contained in a public court record[.]” unless the information is expressly made confidential under the Act or other law. Gov’t Code § 552.022(a)(17). You seek to withhold the court-filed documents, which we have marked, under section 552.108 of the Government Code. However, this section is a discretionary exception to disclosure that protects a governmental body’s interests and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 664 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to Gov’t Code § 552.108 subject to waiver). Therefore, you may not withhold the court-filed documents, which we have marked, under section 552.108 of the Government Code. However, we will address your argument for the information not subject to section 552.022(a)(17) of the Government Code.

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 pertains to an active criminal investigation or prosecution involving the city’s Animal Services Office (the “office”). We understand the office enforces state laws and city ordinances related to animals. Based on your representations and our review, 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 (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).

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). Thus, with the exception of the court-filed documents we have marked and basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, with the exception of the court-filed documents we have marked and basic information, which must be released, the city may withhold the submitted information 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 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,

Tim Neal
Assistant Attorney General
Open Records Division

TN/mo

Ref: ID# 958089

Enc. Submitted documents

c: Requestor
(w/o enclosures)