



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 31, 2022

Ms. Aliceson Cotton
Counsel for City of Wylie
Abernathy Roeder Boyd Hullet
1700 Redbud Lane, Suite 300
McKinney, Texas 75070-1210

OR2022-26508

Dear Ms. Cotton:

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# 969426.

The City of Wylie (the "city"), which you represent, received a request for a roster of city police officers, a list city police officers who were terminated or resigned during a defined period of time, certain information pertaining to internal affairs investigations, and information pertaining to a named individual, including a specified incident. We understand the city will release some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.1175, and 552.152 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 that claims an exception to disclosure under section 552.108(a)(1) must explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information at issue relates to an ongoing criminal investigation. Based upon your representation and our review, we find 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, section 552.108(a)(1) is applicable to the information at issue.

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 186-88; see also Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information does not include dates of birth, the identities of victims, witnesses, or other involved parties, but does include the identities of complainants. See ORD 127 at 3-4. Thus, with the exception of basic information, which must be released, the city may withhold the information you indicated under section 552.108(a)(1) of the Government Code.¹

Section 552.1175 of the Government Code protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. Gov't Code § 552.1175. Section 552.1175 applies, in part, to “current or honorably retired peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1); see *id.* § 552.003(1-b) (defining “honorably retired” for purposes of the Act). The basic information contains information that may be subject to section 552.1175. Accordingly, if the information we marked relates to a current or honorably retired peace officer who elects to restrict access to their information in accordance with section 552.1175(b) of the Government Code, then the city must withhold the information we marked under section 552.1175 of the Government Code.

The city seeks to withhold some of the remaining information under section 552.152 of the Government Code. Section 552.152 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.

Id. § 552.152. The city asserts release of the information you marked would subject the employees at issue to a substantial threat of physical harm. Upon review, we find section 552.152 is applicable to portions of the information at issue. Accordingly, the city must withhold the information we marked under section 552.152 of the Government Code. However, we find you have failed to demonstrate the release of the remaining information would subject an employee to a substantial risk of physical harm. Therefore, the city may not withhold any portion of the remaining information under section 552.152 of the Government Code.

¹ As our ruling is dispositive, we need not address the remaining arguments against disclosure of this information.

In summary, with the exception of basic information, which must be released, the city may withhold the information you indicated under section 552.108(a)(1) of the Government Code. In releasing basic information, if the information we marked relates to a current or honorably retired peace officer who elects to restrict access to their information in accordance with section 552.1175(b) of the Government Code, then the city must withhold the information we marked under section 552.1175 of the Government Code. The city must withhold the information we marked under section 552.152 of the Government Code. The city 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.

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,

Jahnna Ward
Assistant Attorney General
Open Records Division

JW/mo

Ref: ID# 969426

Enc. Submitted documents

c: Requestor
(w/o enclosures)