



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Ms. Jacque Cullom  
Assistant City Attorney  
City of San Marcos  
630 East Hopkins  
San Marcos, Texas 78666

OR2022-27173

Dear Ms. Cullom:

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# 970769 (Ref. Nos. W011011, W011017, W011018, W0011024, W011026, W011099).

The City of San Marcos (the “city”) received five requests from three requestors for information pertaining to a specified incident. The second requestor additionally requested attachments to a specified letter to this office from the city. You state you will release some information in response to the first and sixth requests. You claim the submitted information is exempted from disclosure under sections 552.101 and 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Section 552.108(a)(1) of the Government Code exempts 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

---

<sup>1</sup> Although you do not raise section 552.101 of the Government Code in your brief, we understand you to assert this exception based on the substance of your argument.

pertains to a pending criminal investigation and prosecution. You also state the information at issue relates to a case that resulted in the dismissal of charges against one of the suspects at issue. However, we understand you to assert the information pertaining to the dismissal is so intertwined with the pending investigation and prosecution that it cannot be easily separated. Based on this representation, 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). Thus, section 552.108(a)(1) is applicable to the submitted information.

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). Section 552.108(c) refers to the basic information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, which must be released, 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,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/jxd

---

<sup>2</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information. Further, as we are able to make this determination, we do not address the applicability of section 1701.661(a) of the Occupations Code to the submitted video recording. *See generally* Occ. Code § 1701.661(a), (e).

Ms. Jacque Cullom - Page 3

Ref: ID# 970769

Enc. Submitted documents

c: 3 Requestors  
(w/o enclosures)