



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 8, 2022

Mr. Juan E. Gonzalez
Counsel for the City of Weslaco
Law Office of Juan E. Gonzalez
3110 East Business Highway 83
Weslaco, Texas 78596

OR2022-38054

Dear Mr. Gonzalez:

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# 988834.

The Weslaco Police Department (the "department"), which you represent, received two requests from different requestors for information related to a particular incident. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.117 of the Government Code.¹ We have considered the exceptions you claim 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 release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the

¹ Regardless of whether the department complied with section 552.301 of the Government Code, we note section 552.101, section 552.117, and the interests under section 552.108 of a governmental body other than the one that failed to comply with section 552.301 can provide compelling reasons sufficient to overcome the presumption of non-disclosure. *See Open Records Decision No. 586 (1991)*. Accordingly, we will consider the applicability of these sections to the submitted information.

pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You have submitted a representation from the Hidalgo County District Attorney's Office (the "district attorney's office") objecting to the release of the information at issue because it relates to a pending investigation or prosecution, and release of that information would interfere with the investigation and prosecution of the case. Based on this representation and our review, we agree section 552.108(a)(1) is applicable to the submitted information. Based upon this representation, we conclude the release of the submitted 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 (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). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the district attorney's office.²

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,

Erin Groff
Assistant Attorney General
Open Records Division

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

Ref: ID# 988834

Enc. Submitted documents

c: Requestor
(w/o enclosures)