



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 9, 2014

Mr. Daniel Ortiz  
Assistant City Attorney  
City of El Paso  
P.O. Box 1890  
El Paso, Texas 79950-1890

OR2014-22228

Dear Mr. Ortiz:

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# 546144 (Reference No. 14-1026-4767).

The City of El Paso (the "city") received a request for internal affairs investigations of eight named police officers and a specified police report. You state the city has released some information. You state the city does not have any responsive internal affairs investigations.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code.<sup>2</sup> 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 reasonably explain how and why the

---

<sup>1</sup>The Act does not require a governmental body to release information that did not exist when it received a request or to create responsive information. *See Economic Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 555 at 1 (1990), 452 at 3 (1986), 362 at 2 (1983).

<sup>2</sup>Although you also raise section 552.101 of the Government Code in conjunction with the doctrines of common-law and constitutional privacy, you have provided no arguments to support the applicability of these doctrines to the submitted information. Accordingly, we assume you no longer assert section 552.101 in conjunction with these doctrines. *See* Gov't Code §§ 552.301, .302.

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 city states, and provides a letter from the Office of the District Attorney for the 34th Judicial District confirming, the submitted information relates to a pending criminal prosecution in the County Court at Law Number One. Based on 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, 186-87 (Tex. 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).

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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the city must release, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>3</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 [http://www.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Kristi L. Godden  
Assistant Attorney General  
Open Records Division

KLK/cz

---

<sup>3</sup>As our ruling is dispositive, we do not address the city's other argument to withhold the submitted information, except to note basic information generally may not be withheld from public disclosure under section 552.103. *See* Open Records Decision No. 597 at 2-3 (1991).

Ref: ID# 546144

Enc. Submitted documents

c: Requestor  
(w/o enclosures)