



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 10, 2015

Mr. Robert Ray
Assistant City Attorney
City of Longview
P.O. Box 1952
Longview, Texas 75606

OR2015-06931

Dear Mr. Ray:

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# 560649.

The City of Longview and the Longview Police Department (the "city") received four requests for information pertaining to a specified incident.¹ You state the city will release some responsive information. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.130, 552.136, 552.137, 552.140, and 552.147 of the Government Code.² We have considered the

¹You state the second requestor narrowed his request. *See* Gov't Code § 552.222(b) (governmental body may communicate with requestor to clarify or narrow request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380,387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or overbroad request for information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You further state the city sent this requestor a cost estimate of charges pursuant to section 552.2615 of the Government Code, and the requestor has accepted the cost estimate. *See* Gov't Code § 552.2615.

²You acknowledge, and we agree, the city failed to comply with the procedural requirements of section 552.301 of the Government Code in requesting a decision from this office with respect to the first request. *See* Gov't Code § 552.301(b). Nonetheless, sections 552.101, 552.102, 552.117, 552.130, 552.136, 552.137, and 552.140 of the Government Code are mandatory exceptions that can provide compelling reasons to overcome the presumption of openness caused by failure to comply with section 552.301. *See id.* §§ 552.007, .302. Furthermore, we note the law enforcement interests of a governmental body other than the one that failed to comply with section 552.301 can provide a compelling reason for non-disclosure under section 552.302 of the Government Code. *See* Open Records Decision No. 586 at 2-3 (1991). Thus, we will consider the submitted arguments against disclosure of the information at issue, notwithstanding the city's violation of section 552.301 in requesting this decision.

exceptions you claim and reviewed the submitted information. We have also received and considered comments from the Texas Department of Public Safety (“DPS”). *See* Gov’t Code § 552.304 (interested party may submit comments stating why information should or should not be released).

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[.]” *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the 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). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of another law enforcement agency, the governmental body may withhold the information under section 552.108(a)(1) if it demonstrates the information relates to the pending case and this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. We have received comments from DPS in which DPS objects to the release of the submitted information because it pertains to a pending criminal investigation. Furthermore, the submitted information reflects the personnel files at issue relate to officers involved in the incident giving rise to the pending criminal case. 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. Civ. 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).

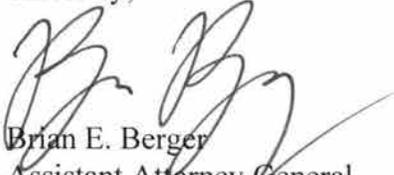
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of DPS.³

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.

³As our ruling is dispositive, we do not address your remaining arguments to withhold this information.

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, 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,



Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 560649

Enc. Submitted documents

c: 4 Requestors
(w/o enclosures)

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