



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 22, 2015

Mr. Mark E. Dempsey  
Assistant City Attorney  
City of Garland  
P.O. Box 469002  
Garland, Texas 75046-9002

OR2015-14968

Dear Mr. Dempsey:

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# 572497 (GCA15-0281, GCA15-0282, GCA15-0283, GCA 15-0284, GCA15-0285, GCA15-0295, GCA15-0296, GCA15-0297, GCA15-0298, GCA15-0299).

The City of Garland (the “city”) received ten requests for information regarding a specified incident.<sup>1</sup> You state the city has released some information. You further state the city does not have information responsive to a portion of some of the requests.<sup>2</sup> You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.152 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information, portions of which consist of a representative sample.<sup>3</sup>

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<sup>1</sup>You state one of the requestors narrowed the scope of the information requested. *See* Gov’t Code § 552.222 (providing that if request for information is unclear, governmental body may ask requestor to clarify 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 over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</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>3</sup>We assume that the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 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 the submitted information relates to a pending criminal investigation by the city’s police department. 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). Therefore, 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*. *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*). We note basic information does not include the identifying information of victims, witnesses, or other involved individuals who are not also listed as complainants. Basic information does include the names of arresting officers and investigating officers. Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>4</sup>

You seek to withhold the names of the investigating officers in the basic 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.

Gov’t Code § 552.152. You represent the release of the names of the investigating officers within the basic information would subject the officers to a substantial threat of physical harm. You state the officers at issue shot and killed suspects who were attempting to kill attendees of a certain event, and that there are individuals who “would attempt to retaliate against the officer(s) involved.” Upon review of your arguments and the submitted information, we find section 552.152 is applicable to the names of the investigating officers within the basic information. Accordingly, the city must withhold the names of the

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<sup>4</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

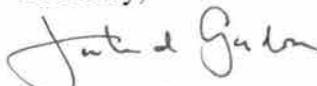
investigating officers in the basic information under section 552.152 of the Government Code.<sup>5</sup>

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. The city must withhold the names of the investigating officers within the basic information under section 552.152 of the Government Code and release the remaining basic 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 [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,



Justin Gordon  
Assistant Attorney General  
Open Records Division

JDG/cz

Ref: ID# 572497

Enc. Submitted documents

c: 9 Requestors  
(w/o enclosures)

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<sup>5</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.