



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 17, 2016

Mr. Oscar G. Gabaldon, Jr.
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950

OR2016-13864

Dear Mr. Gabaldon:

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# 614747 (City Case #16-1026-7334).

The El Paso Police Department (the "department") received a request for all information pertaining to a specified accident. You state you will release some information, including the CR-3 crash report pursuant to section 550.065 of the Transportation Code. *See* Transp. Code § 550.065(c) (providing for release of accident report to person or entity listed under this subsection). You also state you will redact the dates of birth of living persons pursuant to the previous determination issued to the department in Open Records Letter No. 2016-10113 (2016).¹ You claim the submitted information is excepted from disclosure

¹Open Records Letter No. 2016-10113 authorizes the department to withhold dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

under sections 552.108 and 552.1085 of the Government Code.² We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, 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, 710 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. 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, 186-87 (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, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the information at issue.

However, section 552.108(a)(1) of the Government Code 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 186-87; 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 department may withhold the submitted information under section 552.108(a)(1).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.

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/>

²Although you raise section 552.101 of the Government Code in conjunction with section 552.1085 of the Government Code, this office has concluded section 552.101 does not encompass other exceptions found in the Act. *See* Open Records Decision No. 676 at 1-2 (2002). Further, although you raise section 552.101 of the Government Code in conjunction with common-law privacy and constitutional privacy, you have not submitted arguments explaining how common-law privacy or constitutional privacy applies to the submitted information. Therefore, we assume the department has withdrawn its claims under these doctrines. *See* Gov’t Code §§ 552.301, .302.

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

[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,

A handwritten signature in black ink that reads "Cole Hutchison". The signature is written in a cursive style with a large initial "C".

Cole Hutchison
Assistant Attorney General
Open Records Division

CH/akg

Ref: ID# 614747

Enc. Submitted documents

c: Requestor
(w/o enclosures)