



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 16, 2011

Mr. Richard L. Bilbie
Assistant City Attorney
City of Harlingen
P.O. Box 2207
Harlingen, Texas 78551

OR2011-11850

Dear Mr. Bilbie:

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# 426899.

The Harlingen City Attorney's Office (the "city attorney") received a request for (1) all bills from outside counsel hired to investigate ethics complaints in the City of Harlingen (the "city") from January 1, 2010, to May 27, 2011, and (2) a copy of each ethics complaint filed in the city during the same time period. You state the city attorney has released the information responsive to category one of the request and some of the information responsive to category two. You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. 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). A governmental body claiming section 552.108 must reasonably 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 (Tex. 1977). You inform us the city attorney, or a special prosecutor hired by the city attorney, investigates alleged violations of the city's ethics ordinance, a copy of which you have submitted for our review. You state, and the ethics ordinance reflects, the city attorney commences an investigation when a sworn ethics

complaint is filed against a city official, and the city attorney may use the services of the city's police department to assist with the investigation. Furthermore, the investigations may result in criminal charges being filed in the city's municipal court. You inform us the submitted information pertains to pending ethics investigations and that release of this information would interfere with these investigations. Based on your representations and our review, we conclude release of the submitted information would interfere with investigations 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). Accordingly, the city attorney may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 426899

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure.