



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 26, 2012

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

OR2012-04470

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# 449369.

The City of Longview (the "city") received three requests for information pertaining to a specified investigation. You state some information has been released to the requestors. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.117, 552.130, 552.137, and 552.147 of the Government Code. We have considered the claimed exceptions 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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 applies to information held by a "law enforcement agency." However, section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Thus, where a non-law enforcement agency has custody of information that would

otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You inform us, and have provided a statement from the Office of the Inspector General of the United States Department of Housing and Urban Development (the "OIG-HUD") stating, that the OIG-HUD objects to disclosure of the submitted information because its release would interfere with an ongoing criminal investigation. We understand the OIG-HUD is a law enforcement agency with the power to investigate and prosecute crimes. *See* 5 U.S.C. app. 3 §§ 4, 6 (1978). Based on your representation and the submitted statement, we conclude the city may withhold the submitted information, with the exception of information marked for release, under section 552.108(a)(1) of the Government Code on behalf of the OIG-HUD. *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).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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

¹Because our ruling is dispositive, we do not address your remaining arguments against disclosure.

Ref: ID# 449369

Enc. Submitted documents

c: Requestors
(w/o enclosures)