



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2012

Ms. Kirsten B. Cohoon
City Attorney
City of Boerne
P.O. Box 1677
Boerne, Texas 78006-6677

OR2012-17234

Dear Ms. Cohoon:

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# 469595.

The City of Boerne (the "city") received a request for the personnel file of a specified officer.¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.115, 552.117, 552.119, and 552.130 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

¹We note the city sought and received clarification from the requestor regarding the request. *See Gov't Code § 552.222(b)* (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also City of Dallas v. Abbott*, 304 S.W.3d 380 (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).

²Although you raise section 552.1175 of the Government Code as an exception to disclosure, we note the proper exception for your arguments in this instance is section 552.117 of the Government Code because the city holds the information in an employment context.

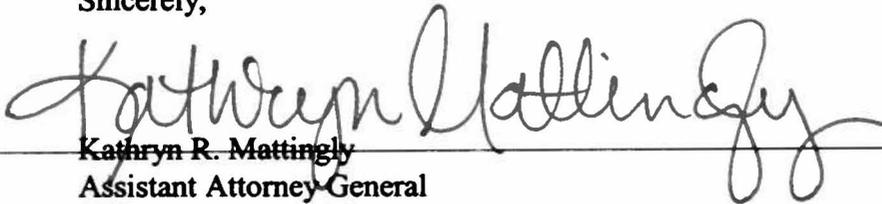
governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You provide documentation from an assistant county attorney with the Kendall County Attorney's Office (the "county attorney's office") stating the county attorney's office objects to release of the submitted information because it relates to an ongoing criminal prosecution. You state the officer whose personnel information is at issue is the arresting officer in the pending prosecution and the county attorney's office states release of the submitted information would interfere with the pending criminal prosecution. Based on these representations and our review, 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 (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); *see also* Open Records Decision No. 474 at 4-5 (1987) (section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct). Accordingly, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.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.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,



Kathryn R. Mattingly
Assistant Attorney General
Open Records Division

KRM/dls

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

Ref: ID# 469595

Enc. Submitted documents

c: Requestor
(w/o enclosures)