



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 15, 2013

Mr. James E. Shepherd
Shepherd Law Firm
1901 North Central Expressway, Suite 200
Richardson, Texas 75080-3528

OR2013-06025

Dear Mr. Shepherd:

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# 485940.

The City of Parker (the "city"), which you represent, received eight requests from the same requestor for specified categories of information, including complaints, disciplinary actions, or write-ups made against a named officer; dashcam footage, photographs or other documentation related to a specified incident; and the report, discovery, and presentation provided to the City Council on February 8, 2013, regarding the city's police department or other divisions, committees, commissions, or employees of the city. The city states it released some of the requested information but claims the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.107 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

You assert the submitted information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a) provides in part the following:

Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

- (1) release of the information would interfere with the detection, investigation, or prosecution of crime;
- (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a)(1)-(2). Section 552.108(a)(1) is mutually exclusive of section 552.108(a)(2). Section 552.108(a)(1) protects information that pertains to a specific pending criminal investigation or prosecution. In contrast, section 552.108(a)(2) protects information that relates to a concluded criminal investigation or prosecution that did not result in conviction or deferred adjudication.

A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than conviction or deferred adjudication. You state the submitted information pertains to a domestic violence investigation that concluded in a final result other than conviction or deferred adjudication. However, you also inform us there is a pending bribery and perjury investigation that arose from the domestic violence investigation and assert release of the submitted information would interfere with that pending investigation. 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 (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). Therefore, the city may withhold the submitted information from release pursuant to section 552.108(a)(1) of the Government Code.¹

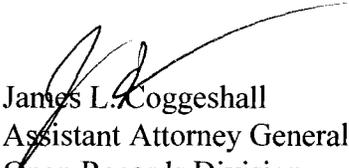
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 485940

Enc. Submitted documents

c: Requestor
(w/o enclosures)