



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 17, 2013

Ms. Erin A. Higginbotham
Counsel for the City of Copperas Cove
Denton, Navarro, Rocha & Bernal
2500 West William Cannon, Suite 609
Austin, Texas 78745

OR2013-16139

Dear Ms. Higginbotham:

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# 499873.

The City of Copperas Cove (the "city"), which you represent, received two requests from different requestors for information pertaining to a specified internal investigation and the personnel file and information pertaining to a named officer involved in the investigation. You state you are withholding information pursuant to Open Records Decision No. 684 (2009).¹ You claim the submitted information is excepted from disclosure under sections 552.101, 552.102, 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

¹We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies authorizing them to withhold certain information, including direct deposit authorization forms under section 552.101 of the Government Code in conjunction with common-law privacy; the Form I-9 and attachments under section 552.101 of the Government Code in conjunction with section 1324a of title 8 of the United States Code; W-2 and W-4 forms under section 552.101 of the Government Code in conjunction with section 6103(a) of title 26 of the United States Code; and an e-mail address of a member of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

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), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note section 552.108 is generally not applicable to records of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution). You state the submitted information pertains to a pending criminal case. You inform us the personnel records pertain to an officer who is involved in the criminal case and will likely be a witness in the criminal prosecution. Based on your representations and our review, we conclude the release of the submitted information would interfere with the detection, investigation, or prosecution of crime, and thus, section 552.108(a)(1) is applicable to this information. *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 under section 552.108(a)(1) of the Government Code.²

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/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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/eb

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 499873

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)