



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 13, 2013

Ms. Michelle M. Kretz  
Assistant City Attorney  
Office of the City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2013-19791

Dear Ms. Kretz:

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# 506113 (FW PIR No. W028497).

The City of Fort Worth (the "city") received a request for the following information from the seven days preceding the request, including all related multimedia, but excluding video recordings taken during the disciplinary process: (1) civil service disciplinary memoranda, (2) disciplinary memoranda for non-civil service employees resulting in a suspension of at least one day, and (3) termination memoranda for city employees, excluding those resulting from an employee having a temporary position at the end of their service term. You inform us you have released the majority of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

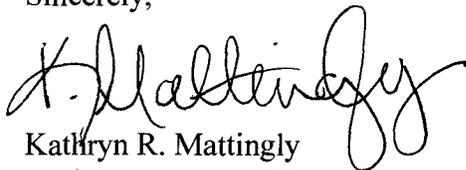
Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). Generally, 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). We note the submitted information was used in an internal investigation. Section 552.108

generally is not applicable to purely administrative records that did not result in a criminal investigation or prosecution. See *City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App. 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor not applicable to internal investigation that did not result in criminal investigation or prosecution); Open Records Decision No. 562 at 10 (1990). However, you state, and have submitted an affidavit from the Chief of the Misdemeanor Division of the Tarrant County District Attorney's Office (the "district attorney's office") demonstrating, the district attorney's office objects to the release of the submitted information because it relates to a pending criminal prosecution. Based upon this representation, we conclude section 552.108(a)(1) is applicable, and 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 under section 552.108(a)(1) of the Government Code.

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](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,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 506113

Enc. Submitted documents

c: Requestor  
(w/o enclosures)