



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 18, 2014

Mr. Raul Casso
City Attorney
City of Laredo
P.O. Box 579
Laredo, Texas 78042-0579

OR2014-23033

Dear Mr. Casso:

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# 547639 (City of Laredo File #W004119-092814).

The City of Laredo (the "city") received a request for all police reports pertaining to a specified individual during a specified time period, the department's policies and procedures for handling mentally ill suspects, and the department's policies and procedures for use of force. You state you have released some 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, we note you have submitted information that is not responsive to the instant request because the reports at issue do not name the specified individual in any capacity. This ruling does not address the public availability of any information that is not responsive to the request and the city is not required to release such information in response to this request.

Next, we address the requestor's contention the city did not comply with the procedural requirements of the Act. Pursuant to section 552.301(b), a governmental body that receives a request for information that it wishes to withhold must ask for the attorney general's decision and state the exceptions that apply within ten business days after receiving the request. *See id.* § 552.301(b). Additionally, pursuant to section 552.301(d)(2), a

governmental body must provide the requestor with a copy of the governmental body's written communication to the attorney general within ten business days of receiving the request for information. *Id.* § 552.301(d). The requestor argues the city did not raise section 552.108 of the Government Code within ten business days after receiving the request. The requestor also asserts she was not timely provided a copy of the city's request for a ruling from this office as required by section 552.301(d)(2) of the Government Code.

You state the city received the request for information on September 28, 2014. We note September 28, 2014, was a Sunday; therefore, for purposes of the Act, we find the city is deemed to have received the request on Monday, September 29, 2014. Thus, the city's ten-business-day deadline was October 13, 2014. We note the city's request for a decision to this office was timely submitted because it was postmarked October 10, 2014, and shows it was copied to the requestor. This office is unable to resolve disputes of fact in the open records ruling process. Accordingly, we must rely upon the facts alleged to us by the governmental body requesting our opinion, or upon those facts that are discernable from the documents submitted for our inspection. *See* Open Records Decision No. 522 at 4 (1990). Based on the submitted information, we find the city complied with the procedural requirements of section 552.301(d) in requesting this ruling. Furthermore, we note the city timely raised section 552.108 of the Government Code; thus, we find the city also complied with the procedural requirements of section 552.301(b).

Section 552.108 of the Government Code provides, in part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from [required public disclosure] if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Subsection 552.108(a)(1) protects information if its release would interfere with a particular pending criminal investigation or prosecution. Subsection 552.108(b)(1) protects internal law enforcement and prosecution records, the release of which would interfere with law enforcement and prosecution efforts in general. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 327 (Tex. App.—Austin 2002, no pet.) (section 552.108(b)(1) protects information that if released would permit private citizens to

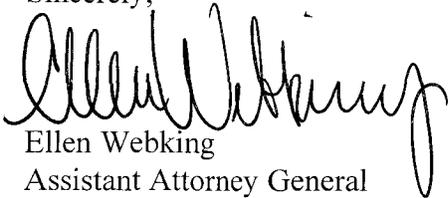
anticipate weaknesses in police department, avoid detection, jeopardize officer safety, and generally undermine police efforts to effectuate state laws). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 is generally not applicable to the 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*, 86 S.W.3d 320; *Morales v. Ellen*, 840 S.W.2d 519 (Tex. 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); *see also* Open Records Decision No. 350 at 3-4 (1982).

You state the submitted offense reports relate to a pending internal affairs investigation. However, you have failed to explain how the release of the submitted information would interfere with a particular pending criminal investigation or prosecution. Accordingly, we find the city has failed to demonstrate the applicability of section 552.108(a)(1) to any portion of the submitted information. Further, we find you have failed to demonstrate how the release of any portion of the submitted information would interfere with law enforcement or prosecution efforts in general. Accordingly, the city may not withhold any of the submitted information under section 552.108(b)(1) of the Government Code. As no further exceptions to disclosure have been raised, the submitted responsive information must be released.

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,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/ac

Ref: ID# 547639

Enc. Submitted documents

c: Requestor
(w/o enclosures)