



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

July 27, 2016

Ms. Amy L. Sims  
Deputy City Attorney  
Office of the City Attorney  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR2016-16920

Dear Ms. Sims:

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# 620436 (File no. 1350).

The City of Lubbock (the "city") received a request for a copy of a specific administrative investigation file as redacted pursuant to a specified court order. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Initially, we note the requestor only seeks the redacted version of the administrative investigation file at issue. We note the submitted information contains the unredacted version of the administrative investigation file. Accordingly, the unredacted administrative investigation file is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the city is not required to release such information in response to this request.<sup>1</sup>

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<sup>1</sup>As our ruling is dispositive, we need not address the city's arguments against disclosure of this information.

Next, some of the responsive information was the subject of a previous request for information in response to which this office issued Open Records Letter No. 2015-13340 (2015). In Open Records Letter No. 2015-13340, we ruled the city may withhold the submitted information under section 552.108(a)(1) of the Government Code, but must release the basic information. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the city may continue to rely on Open Records Letter No. 2015-13340 as a previous determination and withhold or release the identical information in accordance with that ruling.<sup>2</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 governmental body claiming section 552.108(a)(1) must 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). Section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. See *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); see also Open Records Decision No. 350 at 3-4 (1982). However, the city states the remaining responsive information relates to open criminal investigations and release of the information would interfere with the investigations. 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). Based on these representations and our review, we conclude section 552.108(a)(1) of the Government Code is applicable.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic front-page offense and arrest

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<sup>2</sup>As our ruling is dispositive, we need not address the city’s remaining arguments against disclosure of this information.

information, the city may withhold the remaining responsive information under section 552.108(a)(1) of the Government Code.<sup>3</sup>

In summary, the city may continue to rely on Open Records Letter No. 2015-13340 as a previous determination and withhold or release the identical information in accordance with that ruling. With the exception of the basic front page offense and arrest information, which must be released, the city may withhold the remaining responsive 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,



Rahat Huq  
Assistant Attorney General  
Open Records Division

RSH/som

Ref: ID# 620436

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>As our ruling is dispositive, we need not address the city's remaining arguments against disclosure of this information.