



January 6, 2015

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

OR2015-00119

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# 548853 (ORR Nos. W004170 and W004171).

The City of Laredo (the "city") received two requests from the same requestor for information regarding certain incidents involving a named individual. 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 some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2014-16761A (2014). In that ruling, we concluded, except for basic information, the city may withhold the information at issue under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, or circumstances on which Open Records Letter No. 2014-16761A was based have changed. Accordingly, we conclude the city may rely on Open Records Letter No. 2014-16761A as a previous determination and withhold or release the identical information in accordance with that ruling. *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 prior attorney general ruling, ruling is

addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your argument against the disclosure of the remaining information that is not subject to the prior ruling.

Section 552.108 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 information at issue relates to a pending internal affairs investigation. However, you have failed to explain how the release of the information at issue 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 information at issue. Further, we find you have failed to demonstrate how the

release of any portion of the information at issue 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.

In summary, to the extent the information at issue is identical to the information previously requested and ruled upon by this office, we conclude the city may rely on Open Records Letter No. 2014-16761A as a previous determination and withhold or release the identical information in accordance with that ruling. The city must release the remaining information.

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,



Britni Fabian
Assistant Attorney General
Open Records Division

BF/bhf

Ref: ID# 548853

Enc. Submitted documents

c: Requestor
(w/o enclosures)