



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

May 26, 2015

Mr. Benjamin V. Lugg  
Attorney for SAHA  
San Antonio Housing Authority  
818 South Flores Street  
San Antonio, Texas 78204

OR2015-10154

Dear Mr. Lugg:

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# 565850.

The San Antonio Housing Authority (the "authority") received a request for any and all documents related to a specified fraud complaint. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

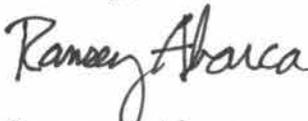
Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A 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 applies only to records created by an agency, or a portion of an agency, whose primary function is to investigate crimes and enforce criminal laws. *See Open Records Decision Nos. 493 (1988), 287 (1981)*. Section 552.108 generally does not apply to records created by an agency whose chief function is essentially regulatory in nature. *Open Records Decision No. 199 (1978)*. An agency that does not qualify as a law enforcement agency may, under certain limited circumstances, claim section 552.108 protects records in its possession. If an administrative agency's investigation reveals possible criminal conduct the administrative agency intends to report or has already reported to the appropriate law enforcement agency, section 552.108 will apply to information gathered by the administrative agency if its release would interfere with law enforcement. *See Gov't*

Code 552.108(a)(1); Attorney General Opinion MW-575 (1982); Open Records Decision Nos. 493 at 1, 474 (1987), 372 at 4 (1983) (where incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information that relates to incident). We note the authority is not a law enforcement agency for purposes of section 552.108. However, you explain the submitted information concerns an administrative investigation, and if that investigation leads to evidence of possible criminal conduct in the future, the authority will report that conduct to a law enforcement agency. Based on these representations and our review, we conclude the release of the submitted information would interfere with the detection, investigation, and prosecution of a 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). Accordingly, the authority may withhold the submitted information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we do not address your remaining claimed exceptions.

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,



Ramsey A. Abarca  
Assistant Attorney General  
Open Records Division

RAA/eb

Ref: ID# 565850

Enc. Submitted documents

c: Requestor  
(w/o enclosures)