



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 2, 2015

Mr. Sam Aguirre
Assistant City Attorney
City of San Marcos
630 East Hopkins
San Marcos, Texas 78666

OR2015-20655

Dear Mr. Aguirre:

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# 582019.

The City of San Marcos (the "city") received a request for information pertaining to a specified notice received by the requestor at the requestor's property. 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.

Initially, we note some of the submitted information, which we have marked, is not responsive to the instant request because it was created after the date the request was received. 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.

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). This section is generally not applicable to records created by an agency whose chief function is essentially regulatory in nature. *See Open Records Decision No. 199* (1978). However, section 552.108 does apply to records created by an agency whose primary function is to

investigate crimes and enforce criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981).

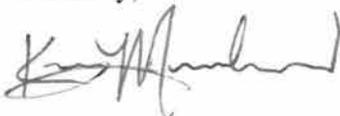
You state the responsive information relates to an active criminal investigation by the city's Code Enforcement Division (the "division"). You indicate the division is a law enforcement agency because the division is charged with enforcing and investigating possible violations of municipal ordinances relating to zoning and land use. You further state the release of the responsive information would interfere with the division's active criminal investigation. Based on your representations and our review, we find the division is a law enforcement agency for purposes of section 552.108 of the Government Code, and we conclude section 552.108(a)(1) is applicable to the responsive information in this instance. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

However, we note 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). We note basic information includes, among other items, an identification and description of the complainant and a detailed description of the offense. ORD 127. Thus, with the exception of basic information, which must be released, the city may withhold the 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, 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,



Kenny Moreland
Assistant Attorney General
Open Records Division

KJM/som

Ref: ID# 582019

Enc. Submitted documents

c: Requestor
(w/o enclosures)