



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 25, 2016

Mr. Jessie Lopez
Counsel for the City of Helotes
Davidson Troilo Ream & Garza, P.C.
601 Northwest Loop 410, Suite 100
San Antonio, Texas 78216-5511

OR2016-04475

Dear Mr. Lopez:

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# 600120 (ORR Nos. 15/16-56, 15/16-57, & 15/16-58).

The City of Helotes (the "city"), which you represent, received three requests from different requestors for dispatch recordings or transcripts during a specified time period. 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 each of the three requestors. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, each requestor contends the city has previously released details of the criminal information and argues the city may not now seek to withhold the submitted information. The Act does not permit selective disclosure of information to the public. *See id.* §§ 552.007 (b), .021; Open Records Decision No. 463 at 1-2 (1987). Section 552.007 of the Government Code provides if a governmental body voluntarily releases information to a member of the public, the governmental body may not withhold that exact information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007(a); Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). *But see* Open Records Decision Nos. 579 (1990) (exchange of information among litigants in "informal" discovery is not "voluntary" release of information for purposes of statutory predecessor to section 552.007), 454 at 2 (1986) (governmental body that disclosed information because it reasonably concluded that it had constitutional

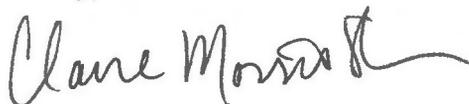
obligation to do so could still invoke statutory predecessor to section 552.108). However, section 552.007 does not prohibit an agency from withholding similar types of information that are not the exact information that has been previously released. In this instance, no requestor contends the city has previously released the exact information the city now seeks to withhold, and we have no indication the city has previously released the precise information at issue to the public. Accordingly, we find section 552.007 of the Government Code is not applicable, and we will address the city's argument against release of the 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal investigation or prosecution. Based upon your representation, we conclude release of the information will interfere with the detection, investigation, or prosecution of 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, we find the city may withhold the submitted 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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 600120

Enc. Submitted documents

c: 3 Requestors
(w/o enclosures)