



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 3, 2016

Ms. Victoria D. Honey
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street; 3rd Floor
Fort Worth, Texas 76102-6311

OR2016-09933

Dear Ms. Honey:

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# 612217 (ORR# W050073).

The City of Fort Worth (the "city") received a request for the "property sheet" from a specified investigation. The city claims the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted information. We have also considered comments submitted by the requestor's law firm. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the city has marked some of the submitted information as being unresponsive to the request for information. 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 this information in response to this request.

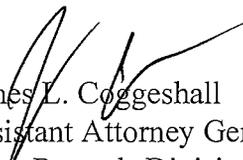
Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution 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 information at issue 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, 710 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision No. 474 at 4-5 (1987). Where a

governmental body possesses information relating to a pending case of another law enforcement agency, the governmental body may withhold the information under section 552.108(a)(1) if it demonstrates the information relates to the pending case and this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. The city has submitted an affidavit from the Tarrant County District Attorney's Office (the "district attorney's office"), in which the district attorney's office states the information pertains to a prosecution that resulted in a conviction and the defendant has not appealed his conviction, but objects to the release of the information at issue because "[t]he [d]efendant has not exhausted all appellate and post-conviction remedies available in state and/or federal court." Thus, we understand the district attorney's office to argue the information at issue pertains to a criminal prosecution that is pending because the defendant still has an opportunity to appeal. However, we note a mere chance of an appeal is insufficient to demonstrate the release of the responsive information will interfere with law enforcement efforts. Thus, the city may not withhold any of the information at issue under section 552.108(a)(1) of the Government Code. Accordingly, the city must release the submitted responsive 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/eb

Ref: ID# 612217

Enc. Submitted documents

c: Requestor
(w/o enclosures)