



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 13, 2017

Mr. Oscar G. Gabaldón, Jr.
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2017-28255

Dear Mr. Gabaldón:

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# 687664 (COEP Case# 17-1026-8874).

The City of El Paso (the "city") received a request for a specified dash camera video recording. The city claims the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the claimed exception 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 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). The city states the submitted information pertains to an active criminal prosecution. Based on the city's representation and

¹Although the city also raises section 552.101 of the Government Code in conjunction with common-law privacy and constitutional privacy for the submitted information, the city provides no arguments explaining how these doctrines apply to the information at issue. Therefore, we assume the city no longer asserts these doctrines. *See* Gov't Code §§ 552.301, .302.

our review, we conclude release of the information at issue would 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.²

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,



Gerald A. Arismendez
Assistant Attorney General
Open Records Division

GAA/tdw

Ref: ID# 687664

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note because the information at issue does not contain criminal history record information ("CHRI"), we do not address whether the requestor, who is an investigator for the El Paso County Public Defender's Office, has a right of access to CHRI pursuant to sections 411.087(a)(2) and 411.1272 of the Government Code. *See Gov't Code* § 411.087(a)(2), .1272.