



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 7, 2022

Mr. Alexander Garcia  
Assistant City Attorney  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2022-27185

Dear Mr. Garcia:

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# 970654 (Ref. No. MRep8).

The Corpus Christi Police Department (the "department") received a request for information pertaining to a specified incident. 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 was the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2022-05389 (2022), 2022-06651A (2022), and 2022-16568 (2022). In Open Records Letter No. 2022-05389, we determined the department may withhold the marked information under section 552.108(a)(1) of the Government Code and must release the remaining information. In Open Records Letter No. 2022-06651A, we determined the department 1) may withhold the marked information under section 552.108(a)(1) of the Government Code, 2) must withhold the marked information under section 552.130 of the Government Code, and 3) must release the remaining information. In Open Records Letter No. 2022-16568, we determined the department may continue to rely on Open Records Letter No. 2022-05389 as a previous determination and withhold or release the information at issue in accordance with that ruling. Section 552.007 of the Government Code provides, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure, unless its public release is expressly prohibited by law or the information is confidential by law. *See* Gov't Code § 552.007. You now seek to withhold the information previously ordered released in Open

Records Letter Nos. 2022-05389, 2022-06651A, and 2022-16568 under section 552.108 of the Government Code. However, we note section 552.108 of the Government Code is a discretionary exception and does not make information confidential under the Act. *See* Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108); *see also* Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). Therefore, with respect to the information previously ordered released in Open Records Letter Nos. 2022-05389, 2022-06651A, and 2022-16568, the department may not withhold any portion of it under section 552.108. Furthermore, with respect to the information previously withheld under sections 552.108(a)(1) and 552.130 of the Government Code in Open Records Letter Nos. 2022-05389, 2022-06651A, and 2022-16568, there is no indication the law, facts, and circumstances on which the prior rulings were based have changed. Accordingly, we conclude the department may continue to rely on Open Records Letter Nos. 2022-05389, 2022-06651A, and 2022-16568 as previous determinations and withhold or release the submitted information in accordance with those rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will consider your argument for the submitted information not subject to the previous rulings.

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). Generally, 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). You state the remaining information relates to an ongoing investigation, and release of that information would interfere with the investigation and prosecution of the case. Based upon this representation, we conclude the release of the remaining information 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). Thus, section 552.108(a)(1) is applicable to the remaining information. Accordingly, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department may continue to rely on Open Records Letter Nos. 2022-05389, 2022-06651A, and 2022-16568 as previous determinations and withhold or release the submitted information in accordance with those rulings. The department may withhold the remaining 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Meredith L. Coffman  
Assistant Attorney General  
Open Records Division

MLC/jxd

Ref: ID# 970654

Enc. Submitted documents

c: Requestor  
(w/o enclosures)