



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 25, 2015

Ms. Holly C. Lytle
Assistant County Attorney
El Paso County Attorney's Office
500 East San Antonio, Room 503
El Paso, Texas 79901

OR2015-05669

Dear Ms. Lytle:

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# 557490 (File No. OP-15-014).

The El Paso County Commissioner's Office, Precinct 2, and El Paso County (collectively, the "county") each received a request from the same requestor for e-mails during specified time periods pertaining to a named county employee and Ascarate Lake water levels. You state the county has provided some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code.¹ We have considered the exceptions you claim 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 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). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for

¹Although you also originally raised sections 552.101, 552.107, and 552.111 of the Government Code, you have not submitted arguments explaining how these sections apply to the submitted information. Therefore, we assume you have withdrawn these claims. *See Gov't Code* §§ 552.301, .302.

exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. You state the submitted information relates to a pending criminal investigation by the El Paso County Sheriff's Office (the "sheriff's office"), and the sheriff's office has requested the information be withheld on its behalf. Based on these representations and our review, we find release of the submitted 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, the county may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the sheriff's office.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,



Leah B. Wingerson
Assistant Attorney General
Open Records Division

LBW/bhf

Ref: ID# 557490

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²As our ruling is dispositive, we need not address your remaining argument against disclosure.