



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

June 20, 2016

Ms. Jacqueline E. Hojem
Public Information Coordinator
Metropolitan Transit Authority of Harris County
P.O. Box 61429
Houston, Texas 77208-1429

OR2016-13933

Dear Ms. Hojem:

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# 615007 (Ref. No. 2016-0277).

The Metropolitan Transit Authority of Harris County (the "authority") received a request for specified surveillance footage related 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, you state the requested information was the subject of a previous ruling from this office. In Open Records Letter No. 2016-01816 (2016), this office ruled the authority may withhold the submitted information under section 552.108(a)(1) of the Government Code. However, upon review, we find circumstances have changed with respect to the requested information and the authority may not rely on Open Records Letter No. 2016-01816 as a previous determination. *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 against disclosure of 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). Section 552.108 may be invoked by any 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 governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You assert the submitted information is excepted under section 552.108(a)(1). You state, and provide an affidavit from the Harris County District Attorney’s Office stating, this information pertains to a criminal investigation that resulted in a conviction. You assert the information at issue should be withheld under section 552.108(a)(1) because the deadline to file a motion for new trial has not yet expired. Thus, we understand the authority 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 submitted information will interfere with law enforcement efforts. Thus, the authority may not withhold any of the information at issue under section 552.108(a)(1) of the Government Code.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release.¹ *See Gov’t Code § 552.130*. Accordingly, the authority must withhold the motor vehicle record information we have indicated under section 552.130 of the Government Code.

In summary, the authority must withhold the motor vehicle record information we have indicated under section 552.130 of the Government Code. The authority must release the remaining 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.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987)*.

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,

A handwritten signature in black ink, appearing to read 'Meredith L. Coffman', with a long horizontal line extending to the right.

Meredith L. Coffman
Assistant Attorney General
Open Records Division

MLC/bw

Ref: ID# 615007

Enc. Submitted documents

c: Requestor
(w/o enclosures)