



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 24, 2016

Ms. Julie Allen
Assistant General Counsel
Texas Alcoholic Beverage Commission
P.O. Box 13127
Austin, Texas 78711

OR2016-23844

Dear Ms. Allen:

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# 631874 (TABC Ref. No. 222946822).

The Texas Alcoholic Beverage Commission (the "commission") received a request for information related to a specified investigation.¹ You state the commission is releasing some of the requested information to the requestor. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.² We have considered the exception you claim and reviewed the submitted representative sample of information.³

¹You state the commission sought and received clarification of the request. *See* Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when governmental entity, acting in good faith, requests clarification or narrowing of unclear or overbroad request for public information, ten-day period to request attorney general ruling is measured from date request is clarified or narrowed).

²Although you raise section 552.101, you have not submitted arguments in support of this exception; therefore, we assume you have withdrawn this exception. *See* Gov't Code §§ 552.301,302.

³We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

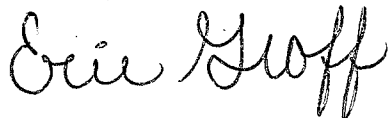
Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108(a)(1) must explain how and why 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).

We note section 552.108 is generally not applicable to purely administrative records that do not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). Although the commission objects to release of the information because its Office of Professional Responsibility has an open investigation, the commission has not demonstrated its open investigation involves the investigation of a crime by the commission, that is, an investigation of violations of the Alcoholic Beverage Code or other laws relating to alcoholic beverages. Thus, the commission failed to demonstrate the applicability of section 552.108(a)(1). Accordingly, the commission may not withhold the submitted information under section 552.108(a)(1) of the Government Code. The commission must release the 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,



Erin Groff
Assistant Attorney General
Open Records Division

EMG/bw

Ref: ID# 631874

Enc. Submitted documents

c: Requestor
(w/o enclosures)