



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

December 28, 2016

Mr. Rene M. Pena  
District Attorney  
81st Judicial District Attorney's Office  
1104 A Street  
Floresville, Texas 78114

OR2016-28498

Dear Mr. Pena:

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# 639612.

The 81st Judicial District Attorney's Office (the "district attorney's office") received a request for (1) written correspondence between the district attorney's office and a named individual during a specified time period and (2) text messages between the district attorney's office and four named individuals during a specified time period. You claim some of the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 Exhibit C 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 Exhibit C 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 Exhibit C. Therefore, the district attorney's office may withhold Exhibit C under section 552.108(a)(1) of the Government Code.<sup>1</sup>

We note section 552.1175 of the Government Code may be applicable to some of the remaining information.<sup>2</sup> Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See Gov't Code* § 552.1175. Section 552.1175 applies, in part, to “peace officers as defined by Article 2.12, Code of Criminal Procedure[.]” *Id.* § 552.1175(a)(1). Some of the remaining information, which we have indicated, pertains to an individual who may be a licensed peace officer of another law enforcement agency. Thus, the district attorney's office must withhold the information we have marked under section 552.1175 if it pertains to an individual who is a currently licensed peace officer and the individual elects to restrict access to this information in accordance with section 552.1175(b). If the individual is not a currently licensed peace officer or does not elect to restrict access to this information in accordance with section 552.1175(b), then the district attorney's office may not withhold this information under section 552.1175.

In summary, the district attorney's office may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The district attorney's office must withhold the information we have marked if the individual at issue is a licensed peace officer and elects to restrict access to his information in accordance with section 552.1175(b). The district attorney's office 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.

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/>

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<sup>1</sup>As our ruling is dispositive, we need not address the district attorney's office's remaining argument against disclosure.

<sup>2</sup>The 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).*

[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 that reads "Kaelan A. Henze". The signature is written in a cursive style with a large initial "K" and a stylized "A".

Kaelan A. Henze  
Assistant Attorney General  
Open Records Division

KAH/eb

Ref: ID# 639612

Enc. Submitted documents

c: Requestor  
(w/o enclosures)