



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 6, 2017

Mr. Mark Anthony Sánchez
Counsel for Maverick County
Sánchez & Wilson
6243 IH-10 West, Suite 1025
San Antonio, Texas 78201

OR2017-02642

Dear Mr. Sánchez:

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# 644419 (S&W File No. 6114).

Maverick County (the "county"), which you represent, received a request for equipment lists for the county sheriff's department during a specified time period. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception 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

¹Although you also raise section 552.201 of the Government Code as an exception to disclosure, this section is not an exception to disclosure. Rather, section 552.201 is an administrative provision that provides for the identity of the officer for public information. *See* Gov't Code § 552.201. Further, although you also raise section 552.103 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See id.* §§ 552.301, .302.

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). 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). 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 state the submitted information pertains to a pending criminal investigation being conducted by the Federal Bureau of Investigation (the “FBI”). However, we have not received any correspondence from the FBI and you have not provided our office with any representation to indicate the FBI wishes to have the information at issue withheld. Accordingly, we find you have failed to demonstrate section 552.108(a)(1) is applicable to the information at issue, and the county may not withhold the submitted information 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.² *See* Gov’t Code § 552.130. Accordingly, the county must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. As you raise no further exceptions to disclosure, the county 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_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

²The 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, 480 (1987), 470 (1987).

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 "Tim Neal". The signature is written in a cursive, flowing style.

Tim Neal
Assistant Attorney General
Open Records Division

TN/sdk

Ref: ID# 644419

Enc. Submitted documents

c: Requestor
(w/o enclosures)