



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 3, 2017

Mr. Will Ramsay  
District Attorney  
8th Judicial District Attorney's Office  
110 Main Street  
Sulphur Springs, Texas 75482

OR2017-04664

Dear Mr. Ramsay:

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# 653632.

Hopkins County (the "county") received a request for (1) any affidavit or sworn statement filed by the Cumby Police Department pertaining to a specified civil asset forfeiture, and (2) any sworn statements for any other assets seized as a result of the traffic stop resulting in the specified civil asset forfeiture. 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, we note you indicated Exhibit B is not responsive to the instant request for information. This ruling does not address the public availability of non-responsive information, and the county need not release non-responsive information to the requestor.

We note Exhibit C may have been filed with a court. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless it is "made confidential under [the Act] or other law[.]" Gov't Code § 552.022(a)(17). To the extent Exhibit C has been filed with a court, it is part of a public court record subject to section 552.022(a)(17) of the Government Code. In that event, although you seek to withhold this information under section 552.108 of the Government Code, this section is a discretionary exception and does not make information

confidential under the Act. *See id.* § 552.007; Open Records Decision No. 665 at 2 n.5 (2000) (discretionary exceptions generally). As such section 552.108 does not make information confidential for the purposes of section 552.022. Accordingly, if Exhibit C has been filed with a court, it may not be withheld under section 552.108. However, because section 552.130 of the Government Code makes information confidential for purposes of section 552.022, we will address the applicability of this section to Exhibit C.<sup>1</sup> Further, to the extent Exhibit C was not filed with a court, we will address your argument against disclosure of this information.

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. *See Gov't Code* § 552.130(a). Accordingly, the county must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

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[.]” *Id.* § 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). You state Exhibit C relates to a pending criminal investigation and prosecution. Based on your representation and our review, we find release of the information at issue 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, if Exhibit C was not filed with a court, the county may withhold Exhibit C under section 552.108(a)(1) of the Government Code.

In summary, to the extent Exhibit C was filed with a court, the county must release Exhibit C pursuant to section 552.022(a)(17) of the Government Code. In releasing Exhibit C, the county must withhold the information we have marked under section 552.130 of the Government Code. To the extent Exhibit C was not filed with a court, the county may withhold Exhibit C under section 552.108(a)(1) of the Government Code.

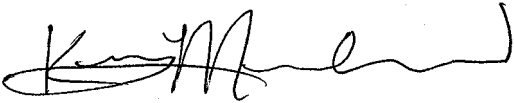
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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](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,



Kenny Moreland  
Assistant Attorney General  
Open Records Division

KJM/sdk

Ref: ID# 653632

Enc. Submitted documents

c: Requestor  
(w/o enclosures)