



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

September 19, 2017

Ms. June B. Harden  
Assistant Attorney General  
Assistant Public Information Coordinator  
Office of the Attorney General  
P.O. Box 12548  
Austin, Texas 78711-2548

OR2017-21456

Dear Ms. Harden:

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# 675991 (PIR No. 17-47113).

The Office of the Attorney General (the "OAG") received a request for information pertaining to a former OAG employee, including information pertaining to a specified investigation and records relating to her commission as a notary public. The OAG states it previously released most of the requested information, including basic information in accordance with section 552.108(c) of the Government Code in response to prior requests for information. *See* Gov't Code § 552.232 (prescribing procedures for response to repetitious or redundant requests for information); *see also id.* § 552.108(c); Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). The OAG states it redacted information subject to section 552.117 of the Government Code pursuant to section 552.024(c) of the Government Code and certain information under

section 552.130(c) of the Government Code.<sup>1</sup> Further, the OAG states, pursuant to the previous determination in Open Records Decision No. 684 (2009), it redacted personal e-mail addresses subject to section 552.137 of the Government Code.<sup>2</sup> The OAG states it redacted certain information subject to section 552.139 of the Government Code, which we understand the OAG did in accordance with Open Records Letter Nos. 2011-18124 (2011) and 2016-21830 (2016).<sup>3</sup> The OAG claims the remaining requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the claimed exception and reviewed the submitted representative sample of information.<sup>4</sup>

Initially, the OAG states the remaining requested information was the subject of previous requests for information, as a result of which this office issued Open Records Letter No. 2016-11398 (2016). In that ruling, we determined, in pertinent part, the OAG may withhold the information at issue under section 552.108(a)(1) of the Government Code. The OAG informs us the facts and circumstances have changed with respect to the information that was previously withheld under section 552.108(a)(1). Accordingly, the OAG may not rely on Open Records Letter No. 2016-11398 with respect to this information. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that

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<sup>1</sup>Section 552.024(c)(2) of the Government Code authorizes a governmental body to redact information protected by section 552.117(a)(1) of the Government Code without the necessity of requesting a decision under the Act if the current or former employee or official to whom the information pertains timely chooses not to allow public access to the information. *See* Gov't Code § 552.024(c)(2). If a governmental body redacts such information, it must notify the requestor in accordance with subsections 552.024(c-1) and (c-2). *See id.* § 552.024(c-1)-(c-2). Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See id.* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including e-mail addresses of members of the public under section 552.137, without the necessity of requesting an attorney general decision.

<sup>3</sup>In Open Records Letter No. 2011-18124, this office issued the OAG a previous determination authorizing it to withhold an employee's user identification under section 552.139 of the Government Code without the necessity of requesting a decision from this office. In Open Records Letter No. 2016-21830, this office issued the OAG a previous determination authorizing it to withhold photographs of its employees that are created specifically for use on identification badges under section 552.139(b)(3) of the Government Code without the necessity of requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

<sup>4</sup>We 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.


information is or is not excepted from disclosure). Thus, we will address the submitted argument against disclosure of the information at issue.

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). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the information at issue 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, 710 (Tex. 1977). The OAG states its Criminal Investigations Division (the “CID”) concluded its investigation into the named former employee. The OAG further states the CID turned its records over to the Travis County Attorney’s Office (the “county attorney’s office”) for prosecution. The OAG informs us the county attorney’s office asks the OAG to withhold the information at issue from disclosure so as not to interfere with the prosecution of its case. Based on this representation, we conclude the 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) is applicable to the information at issue. Accordingly, the OAG may withhold the information at issue under section 552.108(a)(1) of the Government Code on behalf of the county attorney’s office.

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,



Paige Thompson  
Assistant Attorney General  
Open Records Division

PT/eb

Ref: ID# 675991

Enc. Submitted documents

c: Requestor  
(w/o enclosures)