



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 20, 2019

Ms. Gloria E. Barnes
Public Information Coordinator
Capital Metropolitan Transportation Authority
2910 East Fifth Street
Austin, Texas 78702

OR2019-06531A

Dear Ms. Barnes:

This office issued Open Records Letter No. 2019-06531 (2019) on March 11, 2019. You have since submitted additional information which affects this ruling. Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on March 1, 2019. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Your request was assigned ID# 768303 (ORR Nos. 2019-01-565, 2019-01-568, 2019-01-571, 2019-02-576, 2019-01-573, 2019-01-572, 2019-01-575, 2019-02-578 and 2019-02-595).

The Capital Metropolitan Transportation Authority (the "authority") received several requests for information pertaining to a specified incident involving a named individual. 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.

¹We note the authority did not comply with section 552.301 of the Government Code in requesting a ruling from this office with regard to some of the responsive information. *See* Gov't Code § 552.301(b), (e). However, the need of a law enforcement agency other than the agency that is seeking an open records decision to withhold information under section 552.108 of the Government Code can provide a compelling reason sufficient to overcome the presumption of openness. *See* Open Records Decision No. 586 at 3 (1991). Accordingly, we will consider whether the authority may withhold the submitted information on behalf of another law enforcement agency.

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 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). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a non-law enforcement agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration 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, and submit documentation demonstrating, the Austin Police Department (the “department”) and the University of Texas Police Department (“UTPD”) have advised the submitted information is related to an active criminal investigation. The authority informs us the department and UTPD object to disclosure of the information at issue because its release would interfere with the investigation. Based on these representations, we conclude the authority may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department and UTPD. *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).

Sincerely,



Britni Ramirez
Assistant Attorney General
Open Records Division

BR/sb

Ref: ID# 768303

Enc: Submitted documents

c: 6 Requestors
(w/o enclosures)