



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2019

Mr. Robert J. Davis
Counsel for Collin County
Matthews, Shiels, Knott, Eden, Davis & Beanland, L. L. P.
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Dallas, Texas 75251

OR2019-10285

Dear Mr. Davis:

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# 760181 (Ref. No. 1600/69422).

Collin County (the "county"), which you represent, received three requests from two requestors for information pertaining to voters identified as possible non-citizens. You state the county has no information responsive to a portion of one of the request.¹ You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have also received and considered comments submitted by the Office of the Attorney General (the "OAG"). See Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released). We have considered the submitted arguments and reviewed the submitted representative sample of information.²

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[.]" *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why release of the requested

¹The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

²We 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.

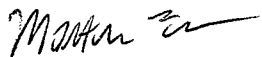
information would interfere with the detection, investigation, or prosecution of crime. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See Open Records Decision No. 474 at 4-5 (1987)*. Where a 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.

The OAG has advised this office the submitted information relates to a pending criminal investigation conducted by the OAG's Election Fraud Section and release of the information would interfere with the pending investigation. Based upon this representation, we conclude the release of the submitted information 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 the submitted information. Accordingly, the county may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the OAG.³

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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Matthew Taylor
Assistant Attorney General
Open Records Division

MHT/jxd

³As our ruling is dispositive, we need not address the remaining arguments against disclosure.

Ref: ID# 760181

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)

Third Party
(w/o enclosures)