



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 17, 2019

Ms. Rebecca R. Walton
County Attorney
Hardin County
P.O. Box 516
Kountze, Texas 77625

OR2019-10341

Dear Ms. Walton:

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# 759857.

The Hardin County Tax Assessor's Office (the "county") received two requests from the same requestor for information pertaining to a specified election advisory. You indicate the county will redact social security numbers under section 552.147(b) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.103 of the Government Code.² We have also received comments from 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 information.

¹Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See* Gov't Code § 552.147(b).

²Although you do not raise section 552.101 of the Government Code in conjunction with common-law privacy in your brief, we understand you to raise this exception based on your markings.

Initially, we note some of the submitted information, which we have marked, is not responsive to the present requests for information because it was created after the county received the present requests. This ruling does not address the public availability of any information that is not responsive to the requests and the county is not required to release such information in response to the present requests.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency . . . 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 asserting section 552.108(a)(1) must explain how and why 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. The OAG states the information at issue pertains to an open criminal investigation conducted by the OAG’s Election Fraud Section, and release of the information at issue would interfere with the ongoing investigation. Based on these representations, we conclude the release of the submitted responsive 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). Accordingly, the county may withhold the submitted responsive 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

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

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 "Blake Brennan".

Blake Brennan
Attorney
Open Records Division

BB/gw

Ref: ID# 759857

Enc. Submitted documents

c: Requestor
(w/o enclosures)

c: Third Party
(w/o enclosures)