



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 22, 2019

Mr. Danny J. Kindred
District Attorney
38th Judicial District of Texas
Medina County
3102 Avenue G
Hondo, Texas 78861

OR2019-10610

Dear Mr. Kindred:

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# 760540.

Medina County (the "county") received two requests for information from the same requestor regarding Election Advisory No. 2019-02. We understand you take no position as to whether the submitted information is excepted under the Act.¹ We also understand release of this information may implicate the interests of the Office of the Attorney General ("OAG"). Accordingly, you notified the OAG of the request for information and of its right to submit arguments to this office as to why the information at issue should not be released. *See Gov't Code* § 552.304 (interested party may submit comments stating why information should or should not be released). We have received comments from the OAG. We have considered the submitted arguments and reviewed the submitted information.

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 that claims an exception to disclosure under section 552.108(a)(1) must explain how and why this

¹Although you raise sections 552.101, 552.102, 552.103, 552.107, 552.108, 552.115, and 552.117 of the Government Code, you make no arguments to support these exceptions. Therefore, we assume you have withdrawn your claim these sections apply to the information at issue. *See Gov't Code* §§ 552.301, .302.

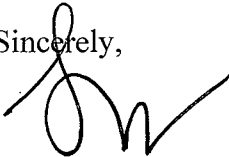
exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records 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 submitted information relates to a pending criminal investigation by the OAG's Election Fraud Section. Based upon this representation and our review, we find 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 information at issue. Accordingly, the county may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the OAG.²

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,



Jahna Ward
Assistant Attorney General
Open Records Division

JW/eb

²As our ruling is dispositive, we need not address the remaining argument against disclosure of the submitted information.

Ref: ID# 760540

Enc. Submitted documents

c: Requestor
(w/o enclosures)

2 Third Parties
(w/o enclosures)