



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 18, 2019

Ms. Myrna S. Reingold
Legal Department
County of Galveston
722 Moody Avenue, 5th Floor
Galveston, Texas 77550

OR2019-26111

Dear Ms. Reingold:

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# 786411.

The County of Galveston (the "county") received a request for information pertaining to the incarceration and death of a named individual. You state the county has released some information to the requestor. You claim most of the submitted information is subject to a previous ruling. You also claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered your arguments and reviewed the submitted information.

Initially, you state most of the submitted information was the subject of previous requests for information, as a result of which this office issued Open Records Letter No. 2019-15684 (2019). You state there has not been any change in the law, facts, or circumstances on which the previous ruling was based with respect to the information at issue. Accordingly, we conclude the county may continue to rely on Open Records Letter No. 2019-15684 as a previous determination and withhold or release the identical information in accordance with that ruling.¹ 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

¹As we are able to make this determination, we need not address your remaining arguments against disclosure of this information.

addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We will address your submitted arguments against disclosure of the remaining 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.” Gov’t Code § 552.108(a)(1). Generally, 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 an 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 inform us, and submit documentation demonstrating, the Galveston County District Attorney’s Office (the “district attorney’s office) objects to the release of the information at issue under section 552.108(a)(1) because it pertains to a pending criminal investigation and release of the information would interfere with the investigation and prosecution of the 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 (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 remaining information under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.²

In summary, the county may continue to rely on Open Records Letter No. 2019-15684 as a previous determination and withhold or release the identical information in accordance with that ruling. The county may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the district attorney’s office.

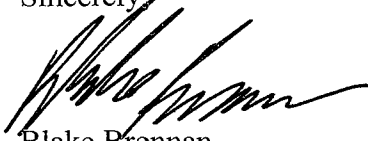
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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 <https://www.texasattorneygeneral.gov/open->

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

[government/members-public/what-expect-after-ruling-issued](#) or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read 'Blake Brennan', written over a white background.

Blake Brennan
Assistant Attorney General
Open Records Division

BBX/mo

Ref: ID# 786411

Enc. Submitted documents

c: Requestor
(w/o enclosures)