



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

November 7, 2019

Mr. Matt Wade  
Counsel for the City of Earth  
Underwood Law Firm  
P.O. Box 16197  
Lubbock, Texas 79490

OR2019-31523

Dear Mr. Wade:

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# 795850.

The City of Earth (the "city"), which you represent, received a request for copies of all documents removed from Earth City Hall by a named individual and the Lamb County Sheriff's Office on a specified date, as well as a list of items removed and a list of names of public officials who assisted or were present during the removal. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request seeking the specified lists. Additionally, you do not inform us the city released this information. Although you state the city submitted a representative sample of the requested information, we find the submitted information is not representative of all types of information to which the requestor seeks access. Please be advised, this open records letter ruling applies only to the types of information you have submitted for our review. This ruling does not authorize the city to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302 (where the request for attorney general decision does not comply with requirements of Gov't Code § 552.301, information at issue is presumed to be public). Accordingly, to the extent any such information existed on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. *See id.* §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

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 any proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records Decision Nos. 474 at 4-5 (1987) (section 552.108 may be invoked by any proper custodian of information relating to pending investigation or prosecution of criminal conduct), 372 (1983). Where a governmental body is in the custody of information that would otherwise qualify for exception under section 552.108 as information relating to the case of a law enforcement agency, the custodian of the records may withhold the information only if it provides this office with (1) a demonstration that the information relates to the case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information. You state the submitted information pertains to a pending criminal investigation by the Texas Rangers, and release of the information could harm the investigation. However, the city has not provided our office with a representation from the Texas Rangers, which is the entity with the pertinent law enforcement interest, objecting to the release of the information at issue. Thus, the city has failed to demonstrate the applicability of section 552.108(a)(1) of the Government Code to the information at issue, and the city may not withhold any of the submitted information on that basis. As the city raises no other exceptions to disclosure, the city must release the information at issue.

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-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,



Katie Stallcup

Attorney

Open Records Division

AKS/eb

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)