



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

February 6, 2020

Mr. James D. Nolan
Assoc. Deputy Chief Counsel
Open Records Section
Texas Comptroller of Public Accounts
P.O. Box 13528
Austin, Texas 78711-3528

OR2020-03547

Dear Mr. Nolan:

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# 810560 (Comptroller ID 9642).

The Texas Comptroller of Public Accounts (the "comptroller's office") received a request for information pertaining to two complaint numbers. You state you have released some information. You claim some of 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.

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 reexplain 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). We note section 552.108 is applicable only to records created by an agency, or a portion of an agency, whose primary function is the investigation of crimes and the enforcement of criminal laws. *See* Open Records Decision Nos. 493 (1988), 287 (1981). Section 552.108 is generally not applicable to records created by an agency whose chief function is essentially regulatory in nature. *See* Open Records Decision No. 199(1978). The comptroller's office is a law enforcement agency for purposes of administering the Tax Code. *A&T Consultants, Inc. v. Sharp*, 904 S.W.2d 668, 678-679 (Tex. 1995).

You state the submitted information relates to active criminal investigations by the criminal investigations division of the comptroller's office. Based on your representations and our review, we find the release of the information you have marked 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, the comptroller's office may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/be

Ref: ID# 810560

Enc. Submitted documents

c: Requestor
(w/o enclosures)