



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 19, 2020

Ms. ML Calcote
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, TX 78773-0001

OR2020-08595

Dear Ms. Calcote:

You ask whether certain information is subject to required public disclosure under the Public Information Act (the "Act"), chapter 552 of the Government Code. This request was originally received by the Open Records Division of this office and assigned ID #817500. Preparation of the ruling has been assigned to the Opinion Committee of this office.

You tell us that the Department of Public Safety received a request for information from Kali Venable on January 6, 2020. The request seeks "all records regarding a Texas Rangers investigation into the Victoria Water District #2 . . . opened in January 2018 after residents accused the district of failing to respond to public records requests." You state that a copy of the basic investigation information has been provided to the requestor. You submitted a representative sample of the records that you contend should be excepted from required disclosure under section 552.108(a)(1).¹ We have considered the exception you claim and reviewed the representative sample of information you submitted.

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 a crime... if... release of the information would interfere with the detection, investigation, or prosecution of a crime." TEX. GOV'T CODE § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office. *See* TEX. GOV'T CODE §§ 552.301(e)(1)(D), .302; Tex. Att'y Gen. ORD-499 (1988) at 6, ORD-497 (1988) at 4.

release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A). Section 552.108 may be invoked by any proper custodian of information relating to an investigation or prosecution of criminal conduct. Tex. Att’y Gen. ORD-474 (1987) at 4-5, ORD-372 (1983) at 4. Where a governmental body has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a different law enforcement agency, the custodian may withhold the information if it provides this office with “(1) a demonstration that the information relates to the pending case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information.” Tex. Att’y Gen. OR-2012-00360, at 2. You state that an investigation into the referenced incident is ongoing. You further state that because the investigation is ongoing, the release of potential evidence would interfere with the investigation and prosecution of the case. *See Houston Chronical Publ’g Co. v. City of Houston*, 531 S.W.2d 177, 186 (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). Based on these representations and our review, we agree that section 552.108(a)(1) is applicable to the information at issue. Accordingly, you may withhold the information submitted and similar information under section 552.108(a)(1) of the Government Code.

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,

William A. Hill
Assistant Attorney General
Opinions Committee

WAH/eb

Ref: ID# 817500

Enc. Submitted documents

c: Requestor
(w/o enclosures)