



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 12, 2020

Mr. Preston Edward Henrichson
Counsel for Hidalgo County Sheriff's Office
Henrichson Law
222 West Cano
Edinburg, Texas 78539

OR2020-25631A

Dear Mr. Henrichson:

This office issued Open Records Letter No. 2020-25631 (2020) on October 12, 2020. We have examined this ruling and determined we will correct the previously issued ruling. *See generally* Gov't Code § 552.011 (providing that Office of Attorney General may issue decision to maintain uniformity in application, operation, and interpretation of Public Information Act (the "Act"), chapter 552 of the Government Code). Consequently, this decision serves as the correct ruling and is a substitute for the decision issued on October 12, 2020. Your request was assigned ID# 848620.

The Hidalgo County Sheriff's Office (the "sheriff's office"), which you represent, received a request for jail records pertaining to the requestor's client. We understand you are relying on Open Records Letter Nos. 2020 17717 (2020) and 2020 17846 (2020) with respect to some of the requested information. *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 addressed in a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). You claim the submitted information is excepted from disclosure under sections 552.101, 552.103, and 552.108 of the Government Code. Additionally, you state release of the submitted information may implicate the interests of the Texas Rangers Division of the Texas Department of Public Safety (the "Texas Rangers"). Accordingly, you state, and provide documentation showing, you notified the Texas Rangers of the request for information and of its right to submit arguments to this office as to why the

submitted information 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 Texas Rangers. We have considered the submitted arguments and reviewed the submitted information, a portion of which consists of a representative sample.¹

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *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 No. 474 at 4-5 (1987). Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

The Texas Rangers object to disclosure of the information at issue because its release would interfere with an ongoing criminal investigation. Based upon this representation, we conclude the 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 submitted information. Accordingly, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the Texas Rangers.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 <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

¹ We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). 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.

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

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,

Ashley Crutchfield
Assistant Attorney General
Open Records Division

AC/eb

Ref: ID# 848620

c: Requestor