



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 10, 2020

Mr. Travis Mickleto  
Assistant County Attorney  
Williamson County  
405 Martin Luther King Street #7  
Georgetown, Texas 78626

OR2020-28335

Dear Mr. Mickleto:

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# 853954 (ORR# 2020-688).

Williamson County (the "county") received a request for information pertaining to a specified investigation by the Williamson County Fire Marshal's Office (the "fire marshal's office"). The county claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses chapter 352 of the Local Government Code. Subchapter B of chapter 352 pertains to the powers and duties of county fire marshals. The subchapter provides the marshal shall investigate the cause, origin, and circumstances of fires that destroy property within the marshal's jurisdiction. Local Gov't Code § 352.013. In certain cases, such as where arson is suspected, the marshal may determine that further investigation is necessary and, in such cases, is granted subpoena powers and the authority to administer oaths and gather and preserve evidence. *Id.* § 352.015.

The county asserts the submitted information is protected from disclosure under section 352.017 of the Local Government Code, which provides, in relevant part, as follows:

(a) In a proceeding under this subchapter, the county fire marshal may:

- (1) conduct an investigation or examination in private;
- (2) exclude a person who is not under examination; and
- (3) separate witnesses from each other until each witness is examined.

*Id.* § 352.017(a). The county argues, relying on *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977), the submitted information is protected from disclosure under subchapter B of chapter 352. In the *Pruitt* decision, the Texas Supreme Court interpreted the statutory predecessor to subchapter B of Chapter 352 of the Local Government Code. The court concluded the purpose of the statute was to preclude interference with the fire marshal's law enforcement duties with respect to active investigatory records of the county fire marshal. *Id.* at 710. The county states the submitted information pertains to an arson investigation by the fire marshal's office that is ongoing and asserts its release would interfere with the investigation. Based on these representations, we conclude the county may withhold the submitted information under section 552.101 of the Government Code in conjunction with the holding in *Pruitt* interpreting section 352.017(a) of the Local Government Code.<sup>1</sup>

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,

James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/gw

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<sup>1</sup> As our ruling is dispositive, we do not address the other argument of the county to withhold this information.

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Enc. Submitted documents

c: Requestor  
(w/o enclosures)