



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

January 20, 2022

Mr. Brandon Draper  
Assistant District Attorney  
Harris County  
500 Jefferson Street, Suite 600  
Houston, Texas 77002

OR2022-01552

Dear Mr. Draper:

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# 924745 (Ref. No. 2021.10-0056).

The Harris County District Attorney's Office (the "district attorney's office") received a request for certain communications between employees of the district attorney's office and specified individuals or entities pertaining to a specified incident and named individuals. You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the requestor excludes certain types of information from the scope of the request, including social security numbers and driver's license numbers. Accordingly, these types of information are not responsive to the request for information. Further, we note some of the submitted information, which we have marked, is not responsive to the instant request for information because it was created after the date the district attorney's office received the instant request for information. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986),

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<sup>1</sup> 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 those records contain substantially different types of information than that submitted to this office.

362 at 2 (1983). This ruling does not address the public availability of any information that is not responsive to the request and the district attorney's office is not required to release that information in response to the request.<sup>2</sup>

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). You state the responsive information pertains to pending criminal prosecutions. You also state the information at issue relates to cases that resulted in the dismissal of charges against two of the suspects at issue. However, we understand you to assert the information pertaining to the dismissals is so intertwined with the pending prosecutions that it cannot be easily separated. Based on this representation, we conclude the release of the information at issue 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). Accordingly, we find the district attorney’s office may withhold the responsive information under section 552.108(a)(1) of the Government Code.<sup>3</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,

Alexandra C. Burks  
Assistant Attorney General  
Open Records Division

ACB/mo

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<sup>2</sup> As we are able to make this determination, we need not address the submitted arguments against disclosure of this information.

<sup>3</sup> As our ruling is dispositive, we need not address the remaining argument against disclosure.

Mr. Brandon Draper - Page 3

Ref: ID# 924745

Enc. Submitted documents

c: Requestor  
(w/o enclosures)