



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 18, 2022

Ms. Jessica N. Morrison
Assistant County Attorney
Williamson County Attorney's Office
405 M.L.K Street #7
Georgetown, Texas 78626

OR2022-24790

Dear Ms. Morrison:

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# 967203 (Ref. No. 2022-462-PIA).

Williamson County (the "county") received a request for specified communications and letters between the county and the Office of the Attorney General (the "OAG") pertaining to a specified complaint. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. Additionally, you state the submitted information may implicate the interests of the OAG. Accordingly, you state you notified the OAG of the request and of its right to submit comments to this office as to why the requested information should not be released. *See* Gov't Code § 552.304 (providing that any person may submit comments stating why information should or should not be released). We have received comments from the OAG. We have considered the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information includes court-filed documents. Section 552.022(a)(17) of the Government Code provides for required public disclosure of "information that is also contained in a public court record[,] unless the information is expressly made confidential under the Act or other law. *Id.* § 552.022(a)(17). Section 552.108 is discretionary in nature and does not make information confidential under the Act. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 177 at 3 (1977) (statutory predecessor to section 552.108 subject to waiver). Therefore, the county may not withhold the information subject to section 552.022(a)(17), which we have marked, under section

552.108 of the Government Code. As you raise no further exceptions to disclosure of this information, the county must release the court-filed documents we have marked pursuant to section 552.022(a)(17). However, we will address your arguments under section 552.108 for the information not subject to section 552.022.

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). Section 552.108 may be invoked by the 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 that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld. The OAG states the remaining information relates to a pending criminal investigation being conducted by the OAG’s Criminal Investigations Division, and release of the information at issue would interfere with the OAG’s ongoing investigation. Based on these representations and our review, we find release of the remaining 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 information at issue. Accordingly, the county may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the OAG.¹

In summary, the county must release the court-filed documents we have marked pursuant to section 552.022(a)(17). The county may withhold the remaining information under section 552.108(a)(1) of the Government Code on behalf of the OAG.

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 As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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,

Pearlie Gault
Assistant Attorney General
Open Records Division

PG/jm

Ref: ID# 967203

Enc. Submitted documents

c: Requestor
(w/o enclosures)