



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

September 19, 2022

Mr. Cary D. Kirby
County Attorney
Angelina County Attorney's Office
P.O. Box 1845
Lufkin, Texas 75902-1845

OR2022-28665

Dear Mr. Kirby:

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# 972610.

Angelina County (the "county") received a request for specified video footage. You claim some the requested information is subject to previous determinations by our office. In the alternative, you claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the submitted arguments and reviewed the submitted information. We have also received and considered comments submitted by the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit written comments regarding why information should or should not be released).

Initially, we address the requestor's contention the county released the information at issue. In this instance, the county states the submitted information was previously released by the county. Section 552.007 of the Government Code provides information that has been voluntarily released to a member of the public may not subsequently be withheld from another member of the public, unless public disclosure of the information is expressly prohibited by law or the information is confidential under law. *See id.* § 552.007; Open Records Decision Nos. 518 at 3 (1989), 490 at 2 (1988). Accordingly, the county may not withhold previously released information unless its release is expressly prohibited by law or the information is confidential under law. You state, and provide documentation showing, the county and the Angelina County District Attorney's Office raise section 552.108 of the Government Code. Section 552.108 is a discretionary exception to disclosure that protects a governmental body's interests and does not make information

confidential under the Act. *See* Gov't Code § 552.007; Open Records Decision No. 177 (1977) (governmental body may waive statutory predecessor to section 552.108). Therefore, the county may not now withhold the previously released information under section 552.108 of the Government Code. However, because section 552.101 of the Government Code protects information made confidential by law, we will consider your argument under this exception for the submitted information.

You inform us the submitted information was subject to previous requests for information, as a result of which this office issued Open Records Letter Nos. 2022-09911 (2022) and 2022-03033 (2022). We have no indication there has been any change in the law, facts, or circumstances on which the previous rulings were based. Accordingly, the county must continue to rely on Open Records Letter Nos. 2022-09911 and 2022-03033 as previous determinations and withhold the submitted information in accordance with those rulings. *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 prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes information is or is not excepted from disclosure). As we are able to make this determination, we need not address your remaining argument against disclosure of the submitted information.

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 M. Graham
Assistant Attorney General
Open Records Division

JMG/mo

Ref: ID# 972610

Enc. Submitted documents

c: Requestor
(w/o enclosures)