



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2013

Ms. Sue Koriath
Assistant Criminal District Attorney
Kaufman County
100 West Mulberry Street
Kaufman, Texas 75142

OR2013-12045

Dear Ms. Koriath:

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# 493041.

The Kaufman County District Attorney's Office (the "district attorney's office") received a request for a specified letter sent to the Office of the Attorney General (the "OAG") concerning an investigation into the City of Forney. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, you state the requested letter is stored on a computer that is part of a homicide investigation, and the district attorney's office does not have possession of that computer. However, you further explain the district attorney's office has located a similar letter concerning the same investigation as the letter requested. We note a governmental body is required to make a good-faith effort to relate a request to information held by a governmental body. *See* Open Records Decision No. 561 at 8 (1990). Based on your representations and our review of the submitted information, we conclude the district attorney's office has made a good-faith effort to identify information that is responsive to the request. Therefore, we will address the applicability of the claimed exception to the submitted information.

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 must reasonably 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 any proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). Where an agency is in the custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of a different law enforcement agency, the custodian of the records may withhold the information only if it provides this office with (1) a demonstration that the information relates to the pending case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information. You state the submitted information pertains to a criminal investigation that was referred to the OAG. The OAG has provided this office with a representation stating its Law Enforcement Division and Criminal Prosecutions Division have an open and active investigation concerning this matter, and its release would interfere with the detection, investigation, and prosecution of a 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). Based on these representations and our review, we conclude the district’s attorney’s office may withhold the submitted 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 http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml, or call the Office of the Attorney General’s Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 493041

Enc. Submitted documents

c: Requestor
(w/o enclosures)

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