



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

October 12, 2016

Ms. Elizabeth Dorsey  
Assistant District Attorney  
Criminal District Attorney's Office  
Waller County  
645 12th Street  
Hempstead, Texas 77445

OR2016-22910

Dear Ms. Dorsey:

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# 635756.

The Waller County Criminal District Attorney's Office (the "district attorney's office") received two requests for an agreement between the district attorney's office and a criminal defendant. 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, we note the requestors seek only the agreement between the district attorney's office and the defendant. Accordingly, some of the submitted information, which we have marked, is not responsive to the requests because it is not part of the agreement. This ruling does not address the public availability of information that is not responsive to the request and the district attorney's office is not required to release such information in response to this request. However, we will address your argument under section 552.108 for the remaining 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(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 remaining information pertains to a pending criminal prosecution. Based on this representation, we conclude section 552.108(a)(1) is generally applicable to the submitted information. *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 curium*, 536 S.W.2d 559 (Tex. 1976). We note, however, the information at issue includes an agreement between the district attorney's office and the defendant signed by the defendant's attorney. You have not explained how releasing this information, which has already been seen by the defendant's attorney, would interfere with the detection, investigation, or prosecution of crime. *See Gov't Code* § 552.108(a)(1). Accordingly, the agreement may not be withheld under section 552.108. Thus, except for the agreement between the district attorney's office and the defendant, which must be released, the district attorney's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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](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,



Jesse Harvey  
Assistant Attorney General  
Open Records Division

JH/bw

Ref: ID# 635756

Enc. Submitted documents

c: 2 Requestors  
(w/o enclosures)