



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 30, 2015

Mr. John West
General Counsel
Office of the Inspector General
Texas Department of Criminal Justice
4616 Howard Lane, Suite 250
Austin, Texas 78728

OR2015-06006

Dear Mr. West:

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# 558036.

The Texas Department of Criminal Justice Office of the Inspector General (the "department") received a request for specified witness statements, information pertaining to a specified weapon, and information pertaining to a named inmate. You claim the requested information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.1175, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, you inform us some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2015-05869 (2015). In that ruling, we concluded that, with the exception of basic information and the information subject to section 552.022(a)(17) of the Government Code, which must be released, the department may withhold the requested information under section 552.108(a)(1) of the Government Code; however, in releasing the documents subject to section 552.022(a)(17) of the Government Code, the department must withhold the certain marked information under section 552.1175 of the Government Code, if the officer whose information is at issue elected to restrict access to his information in accordance with section 552.1175(b) of the Government Code. We have no indication the law, facts, and

circumstances on which the prior ruling was based have changed. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2015-05869, the department must continue to rely on Open Records Letter No. 2015-05869 as a previous determination and withhold or release the identical information in accordance with that ruling. *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 that information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by the previous ruling, we will address the submitted arguments.

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to an open case that is currently on appeal. Based on your representation and our review, we conclude the release of the submitted 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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.¹

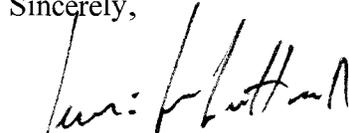
In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office in Open Records Letter No. 2015-05869, the department must continue to rely on Open Records Letter No. 2015-05869 as a previous determination and withhold or release the identical information in accordance with that ruling. The department may withhold the submitted 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.

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/akg

Ref: ID# 558036

Enc. Submitted documents

c: Requestor
(w/o enclosures)