



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 22, 2015

Ms. Diana Spiller
Research Specialist
Public Information Coordinator
Texas Commission on Jail Standards
P.O. Box 12985
Austin, Texas 78711

OR2015-10043

Dear Ms. Spiller:

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# 564976.

The Texas Commission on Jail Standards (the "commission") received a request for all information concerning the death of a named individual. You state you have released some information to the requestor. 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 submitted information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-06222 (2015). In that ruling we determined the commission may withhold the submitted information under section 552.108(a)(2) of the Government Code on behalf of the Brazoria County District Attorney's Office (the "district attorney's office"). We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the commission may rely on Open Records Letter No. 2015-06222 as a previous determination

and withhold the identical information in accordance with that ruling.¹ *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 was not previously requested and ruled upon by this office, we will address your argument for the information not subject to Open Records Letter No. 2015-06222.

Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). This office has concluded section 552.108 may be invoked by any proper custodian of information that relates to the underlying incident. *See* Open Records Decision Nos. 474 (1987), 372 (1983). Where a non-law enforcement agency has custody of information related to a concluded criminal case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information is related to a criminal case that has reached a conclusion other than a conviction or a deferred adjudication and a representation from a law enforcement entity that it wishes to have the information withheld.

You state, and provide documentation showing, the district attorney’s office objects to disclosure of the submitted information because it relates to a concluded criminal investigation that did not result in conviction or deferred adjudication. Based on these representations and our review, we agree section 552.108(a)(2) of the Government Code is applicable to the information at issue. Accordingly, the commission may withhold the remaining information pursuant to section 552.108(a)(2) of the Government Code on behalf of the district attorney’s office.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, we conclude the commission may rely on Open Records Letter No. 2015-06222 as a previous determination and withhold the identical information in accordance with that ruling. The commission may withhold the remaining information pursuant to section 552.108(a)(2) of the Government Code on behalf of the district attorney’s office.

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 argument 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,

A handwritten signature in black ink, appearing to read 'Tim Neal', with a stylized, cursive script.

Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

Ref: ID# 564976

Enc. Submitted documents

c: Requestor
(w/o enclosures)