



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

December 10, 2015

Ms. Charla Thomas
Deputy City Attorney
City of Temple
2 North Main Street, Suite 308
Temple, Texas 76501

OR2015-25899

Dear Ms. Thomas:

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# 590183.

The City of Temple (the "city") received a request for four categories of information related to a specified investigation of a named officer of the city's police department (the "department") during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.¹

Initially, we note the information submitted as Exhibit C is not responsive to the instant request for information because it does not pertain to the specified investigation. This ruling does not address the public availability of any information that is not responsive to the request. As we are able to make this determination, we do not address the submitted argument against disclosure of Exhibit C.

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,

¹We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) 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 the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where an agency has custody of information that would otherwise qualify for exception under section 552.108 as information relating to the pending case of another law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration the information relates to the pending case and a representation from the other law enforcement agency that it wishes to have the information withheld.

You seek to withhold the information submitted as Exhibit B under section 552.108(a)(1) of the Government Code. In this instance, you do not state the department is conducting a criminal investigation into the matter at issue. Thus, the submitted information may not be withheld under section 552.108(a)(1) based on the department’s law enforcement interest. We understand the El Paso Police Department may be conducting a criminal investigation into the matter at issue. However, we have not received any representation from the El Paso Police Department indicating it objects to release of the information at issue. Thus, no portion of Exhibit B may be withheld under section 552.108(a)(1) based on the El Paso Police Department’s law enforcement interest. As no further exceptions to disclosure have been raised, the department must release Exhibit B.

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,



Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/som

Ref: ID# 590183

Enc. Submitted documents

c: Requestor
(w/o enclosures)