



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 12, 2016

Ms. Ann-Marie Sheely
Assistant County Attorney
County of Travis
P.O. Box 1748
Austin, Texas 78767

OR2016-15757

Dear Ms. Sheeley:

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# 618295.

The Travis County Judge's Office (the "county judge's office") received a request for complaints, notes, statements, reports, video surveillance recordings, or e-mail communications involving a named individual that relate to a specified incident or specified allegations pertaining to a job posting, as well as all applications submitted by a named individual for a specified job. You state you have released some information to the requestor with information subject to section 552.117 of the Government Code withheld as permitted by section 552.024(c) of the Government Code.¹ You claim the submitted information is excepted from disclosure under sections 552.107 and 552.108 of the Government Code. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or

¹Section 552.117 of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body. *See* Gov't Code § 552.117(a)(1). Section 552.024 of the Government Code authorizes a governmental body to withhold information subject to section 552.117 without requesting a decision from this office if the current or former employee or official chooses not to allow public access to the information. *See id.* § 552.024(c).

should not be released). We have considered the raised arguments and reviewed the submitted representative sample of information.²

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[.]” *Id.* § 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 submitted information pertains to an internal administrative investigation. Section 552.108 is generally not applicable to information relating to an administrative investigation that did not involve a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also City of Fort Worth v. Cornyn*, 86 S.W.3d 320, 329 (Tex. App.—Austin 2002, no pet.) (section 552.108 generally not applicable to law enforcement agency’s personnel records); Open Records Decision No. 350 at 3-4 (1982). However, you explain, and provide documentation demonstrating, the Austin Police Department (the “department”) states the submitted information relates to a pending criminal investigation being conducted by the department. You state, and the submitted documentation demonstrates, the department objects to release of the submitted information because its release would interfere with the pending criminal investigation. Based upon this representation and our review, we find release of the information at issue 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) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we find the county judge’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code on behalf of the department.³

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.

²This letter ruling assumes the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize the withholding of, any other requested information to the extent that the other information is substantially different than that submitted to this office. *See Gov’t Code* §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

³As our ruling is dispositive, we need not address your remaining argument against disclosure.

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 'JTB', with a horizontal line extending to the right.

Joseph Behnke
Assistant Attorney General
Open Records Division

JB/som

Ref: ID# 618295

Enc. Submitted documents

c: Requestor
(w/o enclosures)