



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

July 14, 2016

Mr. Jonathan L. Almanza
Assistant District Attorney
Hidalgo County Criminal District Attorney's Office
100 North Closner, Room 303
Edinburg, Texas 78539

OR2016-15897

Dear Mr. Almanza:

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# 620948 (Ref. No. 2016-0061-DA.CO).

The Hidalgo County Elections Administration Office (the "elections office") received a request for specified complaint forms, affidavits, and any other information containing the requestor's name. 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.¹

Initially, we note you have submitted a representative sample of information responsive to only some portions of the request. You have not submitted any information responsive to the portion of the request seeking information containing the requestor's name. Although you state you have submitted a representative sample of the requested information, we find the submitted information is not representative of all the information to which the requestor

¹We assume that 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 that those records contain substantially different types of information than that submitted to this office.

seeks access. Please be advised this open records letter applies to only the types of information you have submitted for our review. This ruling does not authorize the elections office to withhold any information that is substantially different from the types of information you submitted to this office. *See* Gov't Code § 552.302. Therefore, to the extent information responsive to the remaining portion of the request exists and was maintained by the elections office on the date it received the request, we assume the elections office has released it to the requestor. If the elections office has not released any such information, it must do so. *Id.* §§ 552.301(a), .302; Open Records Decision No. 664 (2000) (noting that if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible under circumstances).

Section 552.108(a) 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: (1) 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 information at issue 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, 710 (Tex. 1977). By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. The elections office is not a law enforcement agency. However, 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 an ongoing criminal investigation 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 an ongoing criminal investigation and a representation from a law enforcement entity that it wishes to have the information withheld. In this instance, you do not state, and have not otherwise demonstrated, any investigative agency with a law enforcement interest seeks to withhold the information at issue. Thus, you have failed to demonstrate section 552.108(a)(1) of the Government Code is applicable to any of the information at issue, and the elections office may not withhold any portion of the submitted information on that basis. As you raise no further exceptions for the submitted information, it must be released.

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,

A handwritten signature in black ink, appearing to read "B. Berger", written over the printed name.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/eb

Ref: ID# 620948

Enc. Submitted documents

c: Requestor
(w/o enclosures)