



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 5, 2010

Ms. YuShan Chang
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2010-03256

Dear Ms. Chang:

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# 373034.

The City of Houston (the "city") received a request for all e-mail communications by city employees or city police department employees related to a named individual's court orders, visits to central intox, or any other matters and all videos, faxes, or other written documents regarding the same individual's visits to central intox, the DRE room, and/or blood vial storage area. You claim that 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 Exhibit 2, which consists of a driving while intoxicated incident report, is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the city need not release such information in response to this request.

Next, we note you have not submitted any information related to the request for all videos, faxes, or other written documents regarding the named individual's visits to central intox, the DRE room, and/or blood vial storage area. We assume, to the extent information responsive to this portion of the request existed when the city received the request for information, you have released it to the requestor. If not, then you must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).*

Section 552.108(a) 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). Generally, a governmental body claiming section 552.108 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). You state the responsive information relates to an open investigation in which the suspect has been charged and is awaiting a court hearing. Based upon this representation, we find release of the responsive information would interfere with the detection, investigation, or prosecution of crime and, thus, section 552.108(a)(1) is applicable to the information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, the city may withhold the responsive information under section 552.108(a)(1).

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free at (888) 672-6787.

Sincerely,



Kate Hartfield
Assistant Attorney General
Open Records Division

KH/dls

Ref: ID# 373034

Enc. Submitted documents

c: Requestor
(w/o enclosures)