



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 30, 2010

Ms. Vivian J. Harvey  
Assistant County Attorney  
Henderson County Attorney's Office  
100 East Tyler Street  
Athens, Texas 75751

OR2010-13116

Dear Ms. Harvey:

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# 391766.

The Henderson County Sheriff's Office (the "sheriff") received a request for information relating to a specified case number. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

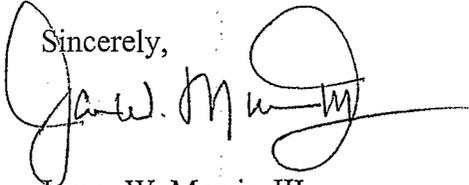
You claim section 552.108(a)(2) of the Government Code, which excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108(a)(2) is applicable only if the information at issue pertains to a concluded criminal case that did not result in a conviction or a deferred adjudication. Although you claim section 552.108(a)(2), you inform us that the submitted information is related to a pending criminal case. Because your assertion of section 552.108(a)(2) is inconsistent with your representation that the information at issue pertains to a pending case, we find that you have not demonstrated that the information pertains to a case that concluded in a final outcome other than a conviction or a deferred adjudication. We therefore conclude that the

sheriff may not withhold any of the submitted information under section 552.108(a)(2) of the Government Code. Thus, because the sheriff claims no other exception to disclosure, the submitted information 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.oag.state.tx.us/open/index\\_orl.php](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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large, looping initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/em

Ref: ID# 391766

Enc: Submitted documents

c: Requestor  
(w/o enclosures)