



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2010

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
301 Jackson Street, Suite 728
Richmond, Texas 77469

OR2010-13693

Dear Ms. Rangel:

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# 393029.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for arrest photographs for June 11 and 12, 2010. You claim the submitted photographs are 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 that you only submitted arrest photographs for June 11, 2010. However, the requestor also seeks the photographs for June 12, 2010. Therefore, to the extent the requested June 12, 2010 arrest photographs exist, we presume the sheriff has released them. If not, the sheriff must do so at this time. *See* Gov't Code §§ 552.301; .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible.)

Section 552.108 of the Government Code provides in relevant part the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime;

...

(b) An internal record or notation of a law enforcement agency or prosecutor that is maintained for internal use in matters relating to law enforcement or prosecution is excepted from the requirements of Section 552.021 if:

(1) release of the internal record or notation would interfere with law enforcement or prosecution[.]

Gov't Code § 552.108(a)(1), (b)(1). Generally, a governmental body claiming subsection 552.108(a)(1) or subsection 552.108(b)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You provide documentation reflecting that the criminal cases related to some of the submitted photographs are active. You state release of the photographs related to those active cases would interfere with the investigations and/or prosecutions of the potential defendants. Based on your representations and our review, we agree the release of the arrest photographs that relate to active criminal cases 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), *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). Thus, section 552.108(a)(1) is applicable to the photographs that pertain to active cases, and the sheriff may withhold them on that basis. However, you do not provide any explanation for how the release of the remaining photographs, which pertain to closed cases, would interfere with law enforcement. Therefore, we find you have failed to demonstrate the applicability of section 552.108(a)(1) or section 552.108(b)(1) to the remaining photographs, which we have indicated. As you raise no other exceptions to disclosure, the remaining photographs 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,

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 "Bob Davis", with a long, sweeping tail extending to the right.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/tp

Ref: ID# 393029

Enc. Submitted documents

c: Requestor
(w/o enclosures)