



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 7, 2010

Mr. David Daugherty
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2010-18335

Dear Mr. Daugherty:

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# 403828 (C. A. File No 10GEN2281).

The Harris County Tax Assessor Collector/Voter Registrar's Office (the "registrar") received a request for (1) copies of voter applications submitted from September 25, 2010, through October 3, 2010, "where the applicant has indicated that they have not been issued a Texas Driver's License/Personal Identification Number or Social Security Number" and (2) "[a]ll updates and changes to *Volunteer Deputy Application Reports*" from September 25, 2010, through October 3, 2010. You claim the requested information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information. We have also received and considered comments submitted by the Public Information Coordinator of the Office of the Attorney General (the "OAG"). See Gov't Code § 552.304 (interested party may submit written comments regarding availability of requested information).

Initially, we note it appears some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-17573 (2010). In Open Records Letter No. 2010-17573, we determined the registrar may withhold certain requested information under section 552.108(a)(1) of the Government Code. We have no indication that the law, facts, and circumstances on which

the prior ruling was based have changed. Accordingly, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude the registrar may continue to rely on that ruling as a previous determination and withhold the information in accordance with Open Records Letter No. 2010-17573. *See* Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not subject to Open Records Letter No. 2010-17573, we will address your arguments against disclosure.

You assert the submitted information is excepted under section 552.108 of the Government Code. Section 552.108(a)(1) 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[.]” 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* Gov’t Code §§ 552.108(a)(1), 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision Nos. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information.

You state and submit an affidavit from an assistant district attorney of the Harris County District Attorney’s Office confirming that the submitted information relates to a pending criminal investigation. The OAG also objects to the release of the information under section 552.108(a)(1) because it relates to a pending criminal investigation being conducted by the OAG’s Criminal Investigations Division. Based on these representations, we conclude the release of this information 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, the registrar may withhold the submitted information under section 552.108(a)(1).¹

¹As we are able to resolve this matter section 552.108, we do not address your other arguments to withhold this information.

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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/vb

Ref: ID# 403828

Enc. Submitted documents

cc: Requestor
(w/o enclosures)