



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 8, 2010

Ms. Robin King  
Custodian of Records  
Kaufman County Sheriff's Office  
1900 E. U.S. Highway 175  
Kaufman, Texas 75142

OR2010-18420

Dear Ms. King:

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# 402353.

The Kaufman County Sheriff's Office (the "sheriff") received a request for all information related to a specified incident. You state have released some of the requested information. You claim the remaining requested 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. We have also received and considered comments from the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we address the requestor's assertion that the requested information was previously ruled upon by this office in Open Records Letter No. 2006-01332 (2006). In Open Records Letter No. 2006-01332, we ruled upon information pertaining to an individual's failure to register as a sex offender. The information at issue pertains to a specified incident that took place in September of 2010 concerning the possession of a controlled substances, tampering with physical evidence, and resisting arrest. Because the information at issue is different than the information ruled upon in the previous ruling, Open Records Letter No. 2006-01332 cannot be relied on as a pervious determination. *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). Accordingly, we will address your argument against the disclosure of the submitted information.

Section 552.108(a)(1) 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 . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). 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). You state that release of the submitted information would interfere with a pending criminal investigation and prosecution. However, the requestor argues that the case is closed and thus there is no ongoing investigation by the sheriff. Whether or not the requested information relates to a pending criminal investigation and prosecution is a question of fact. This office cannot resolve factual disputes in the opinion process. *See Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986)*. Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See Open Records Decision No. 552 at 4 (1990)*. Thus, based on the sheriff’s representations, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976).

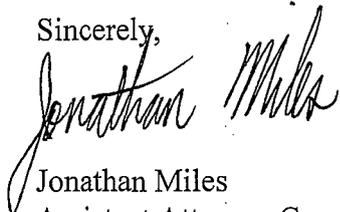
We note that section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The sheriff must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See Open Records Decision No. 127 at 3-4 (1976)* (summarizing types of information deemed public by *Houston Chronicle*). With the exception of basic information, the sheriff may withhold the submitted information under section 552.108(a)(1) of the Government Code.

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 "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/eeg

Ref: ID# 402353

Enc. Submitted documents

c: Requestor  
(w/o enclosures)