



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 24, 2011

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

OR2011-01180

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# 407006 (C.A. File No. 10GEN2626).

The Harris County Tax Assessor Collector/Voter Registrar's Office (the "registrar") received a request for: (1) all voter applications submitted from October 25, 2010, through October 31, 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 October 25, 2010, through October 31, 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).

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[.]" Gov't Code § 552.108(a)(1). 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). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution

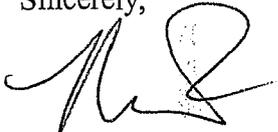
of criminal conduct. *See* Open Records Decision Nos. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates 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 the information 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. 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). Thus, the registrar may withhold the submitted information under section 552.108(a)(1).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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/vb

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

Ref: ID# 407006

Enc. Submitted documents

c: Requestor
(w/o enclosures)