



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 22, 2011

Ms. M. Ann Montgomery
Assistant Ellis County & District Attorney
109 South Jackson
Waxahachie, Texas 75165

OR2011-02600

Dear Ms. Montgomery:

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# 413842.

The Ellis County Sheriff's Office (the "sheriff") received a request for a specified incident report. You claim portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

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). Generally, 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). You state the information you have marked under section 552.108 pertains to a pending criminal case. We note the information at issue includes a notice of suspension. Because a copy of this document, which we have marked, have been provided to the arrestee, we find its release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the sheriff may not withhold this document under section 552.108(a)(1). Based on your representation and our review, we conclude the release of the remaining information you have marked 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, the sheriff may withhold the remaining you have marked section 552.108(a)(1) of the Government Code. The remaining information must be released.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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/vb

Ref: ID# 413842

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released in this instance contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a) If the sheriff receives another request for the same information from a different requestor, the sheriff should again seek a decision from this office.