



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 1, 2011

Ms. Susan Fillion  
Assistant County Attorney  
Harris County  
1019 Congress, 15<sup>th</sup> Floor  
Houston, Texas 77002

OR2011-07730

Dear Ms. Fillion:

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# 419164 (C.A. File No. 11PIA0102).

The Harris County Constable's Office, Precinct Three, (the "constable") received a request for "disciplinary records, Internal Affairs Investigations and any and all complaints and IAD dispositions against" two named officers. You claim that the requested information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note most of the information you have submitted to this office for review is not responsive to the request for information as it does not consist of disciplinary records, internal affairs investigations, complaints, or IAD dispositions pertaining to the two named officers. This ruling does not address the public availability of any information that is not responsive to the request, and the constable is not required to release any nonresponsive information in response to this request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismiss'd).

We next note the responsive information you have submitted for review consists of a warning notice issued to one of the officers and the disposition of a citizen complaint against the same officer. To the extent additional responsive information existed on the date the constable received the request, we assume the constable has released it. If not, the constable 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 that no exceptions apply to the requested information, it must release the information as soon as possible).

You claim the responsive information is excepted from public disclosure under section 552.108 of the Government Code. Section 552.108 excepts from disclosure

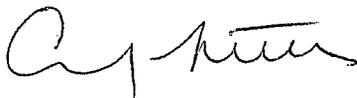
“[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). Generally, a governmental 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, and have submitted an affidavit from the Harris County District Attorney’s Office (the “district attorney”) also stating, that cause number 1717049, a criminal case related to the requestor’s client, is pending in County Criminal Court at Law No. 8, Harris County, Texas. The district attorney further states that release of the submitted information would interfere with that pending criminal prosecution. Based on these representations and our review, we conclude the release of the submitted 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.*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the constable may withhold the submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup>

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

Ref: ID# 419164

Enc. Submitted documents

c: Requestor  
(w/o enclosures)