



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 9, 2011

Mr. Scott A. Durfee
Assistant General Counsel
Office of the District Attorney
Harris County
1201 Franklin, Suite 600
Houston Texas 77002-1901

OR2011-13022

Dear Mr. Durfee:

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# 429268.

The Harris County District Attorney's Office (the "district attorney") received a request for information related to complaints, grievances, or public information requests since January 2007 from or involving two named individuals. You claim the responsive information is excepted from disclosure under section 552.108 of the Government Code. We have also received correspondence from the Office of the Attorney General (the "OAG") objecting to the release of the information. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have considered the submitted arguments and reviewed the submitted information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Id.* § 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). Section 552.108 may be invoked by any proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). Where an agency is in the custody of information that would otherwise

qualify for exception under section 552.108 as information relating to the pending case of a different law enforcement agency, the custodian of the records may withhold the information only if it provides this office with (1) a demonstration that the information relates to the pending case, and (2) a representation from the entity with the law enforcement interest stating that entity wishes to withhold the information.

The OAG states it objects to the release of the information at issue under section 552.108(a)(1) because the information relates to a pending criminal investigation being conducted by the OAG's Law Enforcement Division, and its release would interfere with the pending investigation. Accordingly, we conclude the release of the information at issue 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). Therefore, the district attorney may withhold the information at issue 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, 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/bs

Ref: ID# 429268

Enc. Submitted documents

c: Requestor
(w/o enclosures)

Ms. Jordan Hale
Office of the Attorney General
P.O. Box 12548
Austin, Texas 78711
(w/o enclosures)