



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 3, 2012

Ms. Dylbia L. Jefferies-Vega
Civil Legal Division
Cameron County Commissioners Court
110 East Monroe Street
Brownsville, Texas 78520

OR2012-00539A

Dear Ms. Jefferies-Vela:

You ask this office to reconsider Open Records Letter No. 2012-00539 (2012), which this office issued on January 11, 2012. We note a governmental body is prohibited from asking this office to reconsider a decision issued under section 552.306 of the Government Code. *See* Gov't Code § 552.301(f). Furthermore, you have not demonstrated this office made an error in issuing the prior ruling. Nevertheless, we have determined the prior ruling should be corrected for purposes of due process. *See id.* §§ 552.306, 552.352. Accordingly, we hereby withdraw the prior ruling. This decision is substituted for Open Records Letter No. 2012-00539 and serves as the correct ruling. This ruling was assigned ID# 448489.

The Cameron County Commissioners' Court (the "commissioners' court") received a request for reports made in connection with the employment of a named individual. You claim the 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.

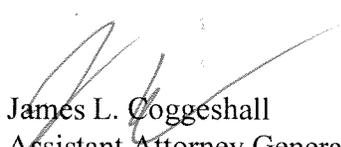
Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]" 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* Gov't Code §§ 552.108(a)(1), (b)(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 non-law-enforcement agency possesses information relating to a pending case of a law enforcement agency, the non-law-enforcement agency 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 have submitted a representation from the Cameron County District Attorney's Office objecting to the release of the submitted information because its release would interfere with an open criminal investigation. Based on this representation, 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. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the commissioners' court 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, 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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/ag

Ref: ID# 448489

Enc. Submitted documents

c: Requestor
(w/o enclosures)