ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2012

Ms. Holly C. Lytle
Assistant County Attorney
El Paso County Attorney's Office
500 East San Antonio Room 503
El Paso, Texas 79901

OR2012-04149

Dear Ms. Lytle:

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# 449470.

The El Paso County Sheriff's Office (the "sheriff's office") received a request for a mug shot 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 information you submitted.

We note the submitted document contains the requested mug shot and additional information. Because the requestor only seeks access to the mug shot, the additional information is not responsive to her request. This decision does not address the public availability of information that is not responsive to the request, and the sheriff's office need not release such information in response to the request.

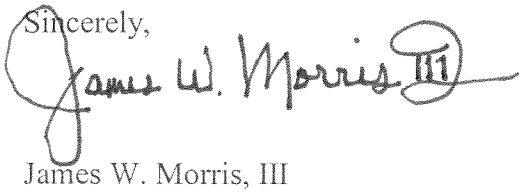
The sheriff's office seeks to withhold the mug shot under section 552.108(a)(1) of the Government Code, which excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" Gov't Code § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the mug

shot is related to a federal arrest. You have provided a copy of an e-mail in which the U.S. Marshal Service (the "USMS") requests that the mug shot not be released. You inform us the offender depicted in the mug shot had already pled guilty in federal court when the sheriff's office received this request for the mug shot. You also inform us this offender has since been sentenced, but the time period for an appeal has not yet run. Having considered your representations and those of the USMS, we find the mere possibility that the offender might attempt to appeal from his guilty plea is insufficient to demonstrate that release of the mug shot will interfere with law enforcement. Thus, we conclude that neither the sheriff's office nor the USMS has demonstrated that release of the mug shot will interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the sheriff's office may not withhold the mug shot under section 552.108(a)(1) of the Government Code. As you claim no other exception to disclosure, the mug shot must be released.

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 W. Morris, III
Assistant Attorney General
Open Records Division

JWM/em

Ref: ID# 449470

Enc: Submitted document

c: Requestor
(w/o enclosures)