



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2012

Ms. Cheryl Elliott Thornton
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2012-04951

Dear Ms. Thornton:

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# 450273 (Harris County File No. 12PIA0020).

The Harris County Constable's Office, Precinct Five (the "constable's office") received a request for a named officer's personnel file. You claim the submitted information is excepted from disclosure under sections 552.102, 552.111, 552.117, and 552.1175 of the Government Code. You have also submitted an affidavit from the Harris County District Attorney's office ("district attorney's office"), in which the district attorney's office claims the submitted information is excepted from disclosure under section 552.108 of the Government Code. *See* Gov't Code § 552.304 (providing interested party may submit written comments stating why information should or should not be released). We have considered all of the submitted arguments and reviewed the submitted information.

Initially, we note the submitted information contains personnel records related to officers other than the named officer. Such information is not responsive to the present request. This decision does not address the public availability of non-responsive information and such information need not be released in response to the present request.

Section 552.108(a)(1) 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 . . . 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 provide an affidavit from an assistant district attorney with the district attorney's office stating the submitted information is related to an ongoing criminal prosecution and the district attorney's office objects to release of the submitted information. The district attorney's office states the named officer is directly involved in the ongoing prosecution as he was the arresting officer and release of the submitted information would interfere with the pending criminal prosecution. Based on these representations and our review, we conclude the release of the responsive 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); *see also* Open Records Decision No. 474 at 4-5 (1987) (section 552.108 may be invoked by any proper custodian of information relating to a pending investigation or prosecution of criminal conduct). Accordingly, the constable's office may withhold the responsive information under section 552.108(a)(1) of the Government Code.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,



Jessica Marsh
Assistant Attorney General
Open Records Division

JM/em

Ref: ID# 450273

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹As our ruling is dispositive, we do not address your remaining arguments against disclosure.