



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 7, 2012

Mr. David K. Walker  
County Attorney  
Open Records Division  
Montgomery County  
207 West Phillips, Suite 100  
Conroe, Texas 77301

OR2012-14207

Dear Mr. Walker:

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# 465245.

The Montgomery County Constable's Office, Precinct 4 (the "constable's office") received a request for information pertaining to complaints, investigations, and disciplinary actions concerning a named deputy. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the claimed exception and reviewed the submitted information.

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

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<sup>1</sup>While you also raise section 552.101 of the Government Code, you have not presented arguments explaining how this exception applies to the submitted information, as required by section 552.301. Thus, this ruling does not address section 552.101. See Gov't Code §§ 552.301(e)(1)(A), .302.

the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note the submitted information consists of internal affairs records. Section 552.108 generally is not applicable to purely administrative records that do not involve a criminal investigation or prosecution. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App. 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor not applicable to internal investigation that did not result in criminal investigation or prosecution); Open Records Decision No. 562 at 10 (1990). However, you state, and provide an affidavit from the Montgomery County District Attorney’s Office (the “district attorney’s office”) confirming, the internal investigation at issue is “inextricably intertwined” with a criminal investigation being conducted by the Texas Rangers and the district attorney’s office. Based on these representations and our review of the information, we conclude release of the submitted information would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) of the Government Code generally applies to the submitted information.

However, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*, and includes a detailed description of the offenses. *See* 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note the information you have marked for release does not contain a detailed description of the offenses. Accordingly, the constable’s office must release a sufficient portion of the information at issue to encompass a detailed description of the offenses. The constable’s office may withhold the remaining information under section 552.108(a)(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](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,

A handwritten signature in cursive script that reads "Misty Haberer Barham".

Misty Haberer Barham  
Assistant Attorney General  
Open Records Division

MHB/bs

Ref: ID# 465245

Enc. Submitted documents

c: Requestor  
(w/o enclosures)