



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 28, 2012

Mr. Wesley M. Criddle  
Chief Deputy  
Wood County Sheriff's Department  
P.O. Box 307  
Quitman, Texas 75783

OR2012-15499

Dear Mr. Criddle:

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# 466811.

The Wood County Sheriff's Department (the "sheriff's department") received a request for all 9-1-1 call recordings during a specified time period and audio recordings from a named deputy's "on person" microphone during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.101, 552.107, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have not submitted information responsive to the portion of the request seeking 9-1-1 call recordings. To the extent any information responsive to this portion of the request existed on the date the sheriff's department received the request, we assume the sheriff's department has released it. If the sheriff's department has not released any such information, it must do so at this time. *See Gov't Code §§ 552.301(a), .302; see also Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).*

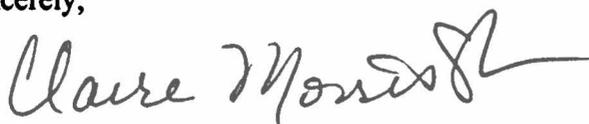
Next, we note the submitted information includes both in-car and on-person audio recordings. The request for information seeks "[r]ecordings made from [the named deputy]'s on person microphone." Thus, the submitted in-car audio recording is not responsive to the instant request for information. This ruling does not address the public availability of any information that is not responsive to the request and the sheriff's department is not required to release such information in response to this 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]”<sup>1</sup> Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the responsive information relates to a criminal case that “has not yet been before the Grand Jury.” Thus, we understand you to state the responsive information relates to a pending criminal investigation or prosecution. Based upon your representation and our review, we conclude release of the responsive information will 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). Accordingly, we find the sheriff’s department may withhold the responsive information under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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,



Claire V. Morris Sloan  
Assistant Attorney General  
Open Records Division

CVMS/som

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<sup>1</sup>We understand you to raise subsection 552.108(a)(1) of the Government Code for the submitted information based on the substance of your argument.

<sup>2</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information.

Ref: ID# 466811

Enc. Submitted documents

c: Requestor  
(w/o enclosures)