



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 12, 2014

Ms. Tamma Willis
McLennan County Sheriff's Office
901 Washington Avenue
Waco, Texas 76701

OR2014-22573

Dear Ms. Willis:

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# 546870.

The McLennan County Sheriff's Office (the "sheriff's office") received a request for information regarding a specified investigation and a subsequent request for the subpoena and any information obtained from the execution of the subpoena related to the same specified investigation. You state you have released some of the requested information to the requestor. You claim the remaining submitted 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.

Initially, you note some of the submitted information consists of grand jury subpoenas and information obtained pursuant to grand jury subpoenas. The judiciary is expressly excluded from the requirements of the Act. Gov't Code § 552.003(1)(B). This office has determined that a grand jury, for purposes of the Act, is a part of the judiciary and therefore not subject to the Act. *See* Open Records Decision No. 411 (1984). Further, records kept by a governmental body that is acting as an agent for a grand jury are considered records in the constructive possession of the grand jury, and therefore are also not subject to the Act. *See* Open Records Decisions Nos. 513 (1988), 411, 398 (1983). *But see* ORD 513 at 4 (defining limits of judiciary exclusion). You state the records at issue are in the constructive possession of the grand jury. Therefore, the records at issue are records of the judiciary and are not subject to disclosure under the Act, and we do not address their public availability.

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(a)(1) 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 state the submitted information pertains to a pending criminal investigation. Based on this representation and our review, we conclude the release of the remaining 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). Thus, section 552.108(a)(1) is applicable to the remaining information.

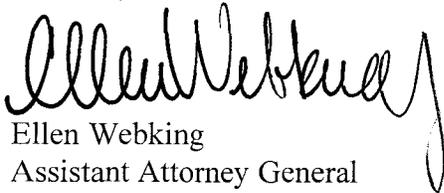
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, the sheriff's office may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the grand jury subpoenas and information obtained pursuant to these subpoenas that are in constructive possession of the grand jury are records of the judiciary and are not subject to disclosure under the Act. With the exception of basic information, the sheriff's office may withhold the remaining information at issue 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/ac

Ref: ID# 546870

Enc. Submitted documents

c: Requestor
(w/o enclosures)