



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 23, 2009

Mr. David K. Walker
County Attorney
Montgomery County
207 West Phillips, 1st Floor
Conroe, Texas 77301

OR2009-02333

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# 335522.

The Montgomery County Sheriff's Department (the "sheriff") received a request for offense reports pertaining to a specified criminal prosecution. You claim that the submitted information is excepted from disclosure under section 552.108 of the Government Code and Article 20.02 of the Code of Criminal Procedure. We have considered your arguments and reviewed the submitted representative sample of information.¹

Initially, we note that the present request is for offense reports pertaining to a specified criminal prosecution. Accordingly, only the two submitted police reports and their accompanying information are responsive to this request. Because Exhibit D contains grand jury subpoenas and related documents, we find Exhibit D is not responsive to this request. This ruling does not address the public availability of nonresponsive information, and the sheriff is not required to release nonresponsive information in response to this request.

We now address your argument regarding the responsive information. Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 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 state that the two submitted police reports relate to a pending criminal prosecution being conducted by the Montgomery County District Attorney’s Office (the “district attorney”). You provide an affidavit from the district attorney informing this office that he objects to release of the two reports at issue because their release would hamper this pending prosecution. Based on these representations, we conclude that the release of the submitted reports 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. App.—Houston [14th Dist.] 1975), *writref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

You acknowledge that 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. Thus, with the exception of the basic front-page offense and arrest information, the sheriff may withhold the responsive reports 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.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 at (512) 475-2497.

Sincerely,



Reg Hargrove
Assistant Attorney General
Open Records Division

RJH/eeg

Ref: ID# 335522

Enc. Submitted documents

c: Requestor
(w/o enclosures)
