



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 8, 2009

Ms. Evelyn W. Njuguna
Assistant City Attorney
City of Houston
P.O. Box 368
Houston, Texas 77001-0368

OR2009-11665A

Dear Ms. Njuguna:

On August 19, 2009, this office issued Open Records Letter No. 2009-11665 (2009). We have examined this ruling and determined that Open Records Letter No. 2009-11665 is incorrect. When this office determines that an error was made in the decisional process under sections 552.301 and 552.306 of the Government Code and that the error resulted in an incorrect decision, we will correct the previously issued ruling. Accordingly, this decision serves as the correct ruling and is hereby substituted for Open Records Letter No. 2009-11665. *See generally* Gov't Code § 552.011 (providing that Office of the Attorney General may issue a decision to maintain uniformity in application, operation, and interpretation of the Public Information Act (the "Act")).

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# 360492.

The City of Houston Emergency Center (the "center") received a request for information relating to an alleged assault on a named individual. You claim that the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.

We initially note that the submitted information includes a police report relating to the alleged assault, which you have submitted as background information. You state that the police report is not responsive to this request for information. You explain that this request was submitted to the center and that the center is not the custodian of the submitted police

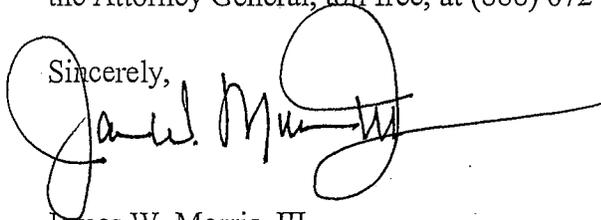
report. Based on your representations, we agree that the police report is not responsive to this request and need not be released in response to the request.

Section 552.108 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[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that release of the submitted information would interfere with a pending criminal investigation. Based on your representation, we conclude that the center may withhold the submitted information under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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,



James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/cc

Ref: ID# 360492

Enc: Submitted information

c: Requestor
(w/o enclosures)