



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 31, 2009

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

OR2009-12213

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# 358246.

The Montgomery County Sheriff's Office (the "sheriff") received a request for a specified arrest record. You claim that portions of the submitted information are excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim 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 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, and provide an affidavit from the Montgomery County District Attorney's Office confirming, that the submitted information relates to an open and pending criminal prosecution. Based upon your representation, the submitted affidavit, and our review, we find that section 552.108(a)(1) is generally applicable to the information you have marked in the submitted information. *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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases).

¹Although, you raised section 552.101 of the Government Code as an exception to disclosure of the requested information, you have provided no arguments regarding the applicability of this section. Since you have not submitted arguments concerning this exception, we assume that you no longer urge it. *See* Gov't Code §§ 552.301(b), (e), .302

We note, and 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). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). We note that you have marked the entire narrative portion of the submitted arrest record as information you seek to withhold under section 552.108. However, the remaining portions of the record do not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See* ORD 127. Accordingly, we determine that the sheriff must release a sufficient portion of the narrative section of the submitted arrest record to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The sheriff may withhold the remaining information you have marked in the submitted arrest record 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,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 358246

Enc. Submitted documents

c: Requestor
(w/o enclosures)