



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 21, 2011

Ms. Susan Fillion
Assistant County Attorney
Harris County
1019 Congress, 15th Floor
Houston, Texas 77002

OR2011-03838

Dear Ms. Fillion:

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# 410590 (C.A. File Nos. 10GEN2868 and 11PIA0004).

The Harris County Tax Assessor Collector/Voter Registrar's Office (the "registrar") received two requests from the same requestor for a list of Harris County registered voters containing any revisions, changes, additions, or deletions during the period of August 1, 2010 through December 31, 2010.¹ You claim the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have also considered comments submitted by the Office of the Attorney General of Texas. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information

¹You state, and provide documentation reflecting, that the registrar sought and received clarification from the requestor regarding an aspect of the request. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 384 (Tex. 2010) (where governmental body seeks clarification or narrowing of request for information, ten-day period to request attorney general opinion is measured from the date request is clarified or narrowed).

should or should not be released). We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

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[.]” *Id.* § 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). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. Open Records Decision Nos. 474 at 4-5 (1987), 372 (1983). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. *See* Open Records Decision Nos. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. You provide an affidavit from the Harris County District Attorney’s Office stating release of the submitted information would interfere with that office’s pending investigation of election fraud. The OAG also objects to the release of the information under section 552.108(a)(1) because the information relates to a pending criminal investigation being conducted by the OAG’s Criminal Investigations Division. Based on these representations and our review, we determine release of the submitted information at this time 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, the registrar may withhold the submitted information under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining argument against disclosure.

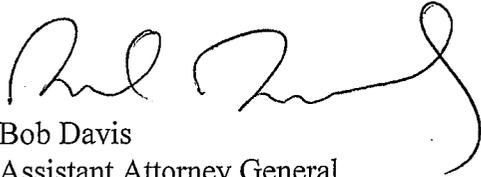
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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

²We assume 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.

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,

A handwritten signature in black ink, appearing to read "Bob Davis", with a large, stylized flourish extending from the end of the name.

Bob Davis
Assistant Attorney General
Open Records Division

RSD/tf

Ref: ID# 410590

Enc. Submitted documents

c: Requestor
(w/o enclosures)