



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 24, 2014

Ms. Cheryl Elliott Thornton  
Assistant Harris County Attorney  
1019 Congress Avenue, 15th Floor  
Houston, Texas 77002

OR2014-06806

Dear Ms. Thornton:

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# 520948 (CAO File No. 14PIA0053).

The Harris County Risk Management Office (the "county") received a request for seven categories of information related to a specified incident and four categories of information related to a specified parking lot. You claim the 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, we note you have only submitted an incident report related to the specified incident. You have not submitted any information responsive to the remaining categories of information sought related to the incident, nor have you submitted any information related to the specified parking lot. To the extent information responsive to these portions of the request exists and was maintained by the county on the date the county received the request, we assume you have released it. *See* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible). If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302.

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(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 relates to an ongoing criminal investigation. However, by

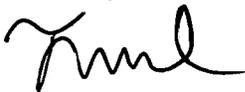
its terms, section 552.108 applies only to a law enforcement agency or prosecutor. You have not explained how the county is a law enforcement agency. Section 552.108, however, may be invoked by the proper custodian of information relating to a pending investigation or prosecution of criminal conduct. *See* Open Records Decision No. 474 at 4-5 (1987). Where a governmental body has custody of information relating to a pending case of a law enforcement agency, the custodian of the records may withhold the information if it provides this office with a demonstration that the information relates to the pending case and a representation from the law enforcement agency that it wishes to have the information withheld.

You state the county “opposes disclosure of the requested information with there being an open and ongoing criminal investigation[.]” However, you have not explained how the submitted information is related to any pending criminal investigation. Furthermore, you have not submitted a representation from any other governmental body explaining how release will interfere with that agency’s law enforcement or prosecutorial interests. Accordingly, we find you have not met your burden under section 552.108(a)(1). Because you have failed to demonstrate the applicability of section 552.108(a)(1), the county may not withhold any portion of submitted information under section 552.108(a)(1) of the Government Code.<sup>1</sup> As you raise no further exceptions to disclosure, the submitted information must be released.

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](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,



Tim Neal  
Assistant Attorney General  
Open Records Division

TN/bhf

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<sup>1</sup>Although we understand you to cite to an Exhibit C to support your argument under section 552.108 of the Government Code, we note your submission to this office did not contain an Exhibit C.

Ref: ID# 520948

Enc. Submitted documents

c: Requestor  
(w/o enclosures)