



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 15, 2009

Mr. Robert E. Reyna
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2009-08225

Dear Mr. Reyna:

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# 346054 (San Antonio file number ORR 2009-3031).

The San Antonio Police Department (the "department") received a request for information pertaining to specific types of crimes committed at a named apartment complex for the past three years. You claim that 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 that we have marked a document in the submitted information that is not responsive to the instant request for information because it was created after the request was received by the department. Additionally, one of the submitted reports, which we have marked, is not responsive because the crime at issue in the report was not committed at the named apartment complex. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release that information in response to the request.

Next, we note that report number 80867150 was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-04896 (2009). In Open Records Letter No. 2009-04896, we ruled that, with the exception of basic information, which must be released, the department may withhold report number 80867150

under section 552.108(a)(1) of the Government Code. We conclude that, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the department may continue to rely on that ruling as a previous determination and withhold or release report number 80867150 in accordance with Open Records Letter Nos. 2009-04896.¹ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, we will address your argument for the remaining information not subject to the previous determination.

Next, we address your contention that report number 80775369 is excepted under section 552.108 of the Government Code, which 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). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 report number 80775369 is related to a pending criminal investigation. Based on your representation, we conclude that section 552.108(a)(1) is generally applicable to the information at issue. 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).

However, we note 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*. See 531 S.W.2d at 186-87; see also Open Records Decision No. 127 (1976). Thus, with the exception of basic information, which must be released, the department may withhold report number 80775369 under section 552.108(a)(1) of the Government Code. We note you have the discretion to release all or part of report number 80775369 that is not otherwise confidential by law. Gov’t Code § 552.007.

In summary, this ruling does not address the information we have marked as non-responsive and the department need not release this information. The department may continue to rely on our previous ruling as a previous determination and withhold or release report number 80867150 in accordance with Open Records Letter No. 2009-04896. With the

¹As our ruling is dispositive with respect to this information, we need not address your argument for this information.

exception of basic information, which must be released, the department may withhold report number 80775369 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 E. Ream
Assistant Attorney General
Open Records Division

LER/dls

Ref: ID# 346054

Enc. Submitted documents

c: Requestor
(w/o enclosures)