



February 3, 2015

Ms. Molly G. Solis
Assistant County Attorney
Atascosa County
1 Courthouse Circle Drive #3-B
Jourdanton, Texas 78026

OR2015-02132

Dear Ms. Solis:

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# 554961.

The Atascosa County Sheriff's Office (the "sheriff's office") received a request for information pertaining to a specified incident. You state the sheriff's office does not have information responsive to a portion of the request.¹ 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, you state some of the submitted information may have been the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2014-20179 (2014). In that ruling, we determined, with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108 of the Government Code. We have no indication the law, facts, or circumstances on which the prior ruling was based have changed. Thus, the sheriff's office may continue to rely on Open Records Letter No. 2014-20179 as a previous determination,

¹The Act does not require a governmental body to release information that did not exist when a request for information was received or to prepare new information in response to a request. *See Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision Nos. 605 at 2 (1992), 452 at 3 (1986), 362 at 2 (1983).

and withhold or release the submitted information that is identical to the information that was at issue in Open Records Letter No. 2014-20179 in accordance with that ruling. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). To the extent the submitted information is not encompassed by the previous ruling, we will consider your argument against disclosure.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the release of the information at issue 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, 710 (Tex. 1977). You state the submitted information relates to a pending criminal investigation. Based on this representation, we conclude the release of the submitted information 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, 186-87 (Tex. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, section 552.108(a)(1) is applicable to the submitted information.

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff’s office may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, to the extent the submitted information is identical to the information that was at issue in Open Records Letter No. 2014-20179, the sheriff’s office may continue to rely on Open Records Letter No. 2014-20179 as a previous determination and withhold or release the submitted information in accordance with that ruling. With the exception of basic information, the sheriff’s office may withhold the submitted information 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.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

A handwritten signature in black ink, appearing to read 'Brian E. Berger', written over a horizontal line.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/akg

Ref: ID# 554961

Enc. Submitted documents

c: Requestor
(w/o enclosures)