



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2015

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283-3966

OR2015-16063

Dear Mr. Kopp:

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# 579672 (COSA File No. W087721).

The City of San Antonio (the "city") received a request for police report number 15090807. 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.

We note the submitted information may have been the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2015-12238 (2015). In that ruling, we concluded the city must withhold the marked motor vehicle record information under section 552.130 of the Government Code and must release the remaining information. We have no indication the law, facts, and circumstances on which this ruling was based have changed. Accordingly, for the submitted information that is identical to the information previously requested and ruled upon by this office, the city must continue to rely on Open Records Letter No. 2015-12238 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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). To the extent the requested information is not encompassed by the previous ruling, we will consider the submitted argument against disclosure.

We note once this office has determined information is not excepted from disclosure, a governmental body may generally not seek another ruling pertaining to precisely the same information. *See* Gov't Code § 552.301(f); ORD 665 at 2 (governmental body not authorized to seek attorney general decision unless it in good faith believes valid legal arguments exist to support claimed exception). Section 552.007 of the Government Code provides that, if a governmental body voluntarily releases information to any member of the public, the governmental body may not withhold such information from further disclosure unless its public release is expressly prohibited by law or the information is confidential under law. *See* Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989); *see also* Open Records Decision No. 400 (1983) (governmental body may waive right to claim permissive exceptions to disclosure under the Act, but it may not disclose information made confidential by law). Accordingly, pursuant to section 552.007, to the extent the information we previously ruled that you must release is identical to the submitted information, the city may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential under law.

You seek to withhold the submitted information under section 552.108 of the Government Code. Because section 552.108 does not prohibit the release of information or make information confidential, the city may not now withhold any previously released information under this exception. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 663 at 5 (1999) (waiver of discretionary exceptions), 586 (1991) (governmental body may waive section 552.108). Thus, the city may not now withhold any of the previously released information under section 552.108. We will address your argument under section 552.108 for any submitted information not subject to the prior ruling.

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). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You represent the submitted information relates to a pending criminal case. Based upon your representation, we find the city has demonstrated release of the information at issue will 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).

However, we note 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 (1976) (summarizing types of information considered to be basic

information). Thus, with the exception of the basic information, and to the extent the information at issue was not subject to the ruling in Open Records Letter No. 2015-12238, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, the city must continue to rely on Open Records Letter No. 2015-12238 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. To the extent the submitted information was not subject to the prior ruling, with the exception of the basic information, which must be released, the city 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 579672

Enc. Submitted documents

c: Requestor
(w/o enclosures)