



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2009

Ms. Natasha Brooks
Assistant City Attorney
City of Midland
P. O. Box 1152
Midland, Texas 79702-1152

OR2009-18168

Dear Ms. Brooks:

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# 365190.

The City of Midland (the "city") received a request for information pertaining to a September 9, 2009 accident, including the police report, photographs taken at the scene, dashboard camera videos, 9-1-1 calls, diagrams of the scene, and details of the investigation. You state you released basic information to the requestor. *See* Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim the responsive photographs are subject to a previous determination by this office. You also claim the submitted incident report, 9-1-1 call recording, and police dashboard camera videos are excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exception you claim and reviewed the submitted information.

Initially, you represent the responsive photographs were the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-13674 (2009). In that ruling, we found that the city may withhold the submitted photographs pursuant to section 552.108(a)(1) of the Government Code. As we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, the city must continue to rely on the ruling as a previous determination and withhold photographs pertaining to the specified accident in accordance with Open Records Letter No. 2009-13674. *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

¹We note the submitted incident report contains a diagram of the accident as well as details of the investigation.

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).

You claim the remaining information is excepted under section 552.108(a)(1) of the Government Code. Section 552.108(a)(1) 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 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 remaining information relates to a pending criminal investigation or prosecution, and that release of this information would interfere with the further investigation and prosecution of this crime. Based on your representations and our review, we determine release of the remaining 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 (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). Accordingly, the city may withhold the remaining information pursuant to section 552.108(a)(1) of the Government Code.

In summary, the city must continue to rely on Open Records Letter No. 2009-13674 and withhold photographs pertaining to the specified accident under section 552.108(a)(1) of the Government Code. With the exception of the basic information you state has been released, the remaining information may be withheld under section 552.108(a)(1).

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, toll free, at (888) 672-6787.

Sincerely,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 365190

Enc. Submitted documents

cc: Requestor
(w/o enclosures)