



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 21, 2010

Mr. Charles H. Weir  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2010-00997

Dear Mr. Weir:

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# 367744 (COSA File No. 2009-4516).

The San Antonio Police Department (the "department") received a request for six categories of information, including information pertaining to a specified incident, police report numbers 06220182/01 and 06016734/01, and criminal history information pertaining to five named individuals. 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 you have not submitted any information pertaining to three of the five named individuals. To the extent information pertaining to these individuals existed on the date the department received this request, we assume you have released it. If you have not released this information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* 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).

Next, we note the submitted information includes a search warrant signed by a magistrate. Section 552.022 of the Government Code provides for required public disclosure of "information that is also contained in a public court record," unless the information is expressly confidential under other law. Gov't Code § 552.022(a)(17). Although the department seeks to withhold this information under section 552.108 of the Government

Code, this section is a discretionary exception to disclosure that protects a governmental body's interests and may be waived. *See id.* § 552.007; Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 177 at 3 (1977) (statutory predecessor to Gov't Code § 552.108 subject to waiver). As such, section 552.108 is not other law that makes information expressly confidential for the purposes of section 552.022(a)(17). Therefore, the department may not withhold the search warrant, which we have marked, under section 552.108. As you raise no further exceptions against disclosure of this information, it must be released.

We next address section 552.108 of the Government Code for the information not subject to section 552.022. 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). Generally, 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 that report numbers 0616734, 06220182, and 06017241 pertain to open criminal investigations. Based upon this representation, we conclude that the release of report numbers 0616734, 06220182, and 06017241 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).

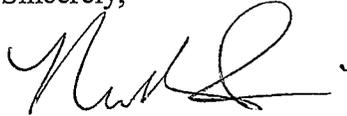
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold report numbers 0616734, 06220182, and 06017241 under section 552.108(a)(1) of the Government Code.

In summary, the department must release the marked search warrant pursuant to section 552.022(a)(17) of the Government Code. With the exception of basic information, the department may withhold report numbers 0616734, 06220182, and 06017241 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](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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/dls

Ref: ID# 367744

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)