



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 25, 2010

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

OR2010-01097

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# 368043 (COSA File No. 2009-4083).

The San Antonio Police Department (the "department") received a request for information pertaining to offense number 90204098. You claim that the requested 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.

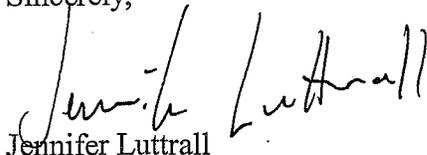
Initially, we note that the submitted information was previously ruled on by this office in Open Records Letter No. 2009-15197 (2009). In that ruling, we ruled the department must release a portion of the information at issue because the department failed to comply with the requirements of section 552.301 of the Government Code. However, we held the department must withhold the information we marked under (1) section 552.101 in conjunction with section 411 of the Government Code and federal law and (2) section 552.130 of the Government Code. We also ruled the department may withhold social security numbers belonging to individuals other than the requestor's clients under section 552.147 of the Government Code. You now seek to withhold the information that was previously addressed by this office. 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 by law. *See id.* § 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, the department may not now withhold the previously released information unless its release is expressly prohibited by law or the information is confidential by law. You seek to withhold the entirety of the submitted information, which was previously released under Open Records Letter No. 2009-15197, under section 552.108 of the Government Code. Section 552.108 does not prohibit the release of information or make information confidential. *See* Open Records Decision Nos. 665 at 2 n.5 (2000) (discretionary exceptions generally), 586 (1991) (governmental body may waive section 552.108). Therefore, because the department has released the information at issue to members of the public in response to Open Records Letter No. 2009-15197, the department may not now withhold such information under section 552.108. Thus, we conclude that the department must continue to withhold or release the submitted information in accordance with Open Records Letter No. 2009-15197.

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

Ref: ID# 368043

Enc. Submitted documents

c: Requestor
(w/o enclosures)