



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 1, 2010

Mr. David H. Guerra
King, Guerra, Davis & Garcia
Attorney for City of Mission
P.O. Box 1025
Mission, Texas 78573

OR2010-01511

Dear Mr. Guerra:

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# 368860.

The City of Mission (the "city"), which you represent, received a request for fifteen categories of information pertaining to an incident that occurred at a specified location on a specified date and involved a named individual. 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, you inform this office the city has no documents regarding an incident occurring at the specified location and involving the named individual on the date set forth in the request. However, you have submitted documents involving an incident occurring at that location and involving the named individual on a different date. As you have made a good faith effort to relate the request to information held by the city and have identified the submitted records as being potentially responsive to the request, we will address your arguments for the submitted records. *See* Open Records Decision No. 561 at 8 (1990) (governmental body must make a good faith effort to relate a request to information held by the governmental body).

Next, we note that some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-16707

(2009). In that ruling, we concluded that, with the exception of basic information, the city's police department may withhold the information at issue under section 552.108(a)(2) of the Government Code. To the extent the submitted information is identical to the information previously ruled upon by this office, we conclude, as we have no indication that the law, facts, and circumstances on which the prior ruling was based have changed, that the city may rely on Open Records Letter No. 2009-16707 as a previous determination and withhold or release the identical 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 submitted information is not encompassed by the previous ruling, we will address your argument for the remaining submitted information.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the submitted information pertains to the investigation of an individual who is deceased. You state that, prior to the conclusion of the investigation, the individual died, and, thus, this investigation did not result in a conviction or deferred adjudication. Based on your representations, we agree that section 552.108(a)(2) is applicable to the submitted information.

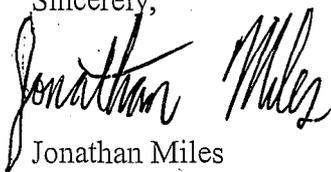
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *See id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976), and includes a detailed description of the offense. *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold the remaining submitted information under section 552.108(a)(2) of the Government Code.

In summary, to the extent the information at issue is identical to the information previously ruled upon by this office, the city may continue to rely on Open Records Letter No. 2009-16707 and withhold or release the identical information in accordance with that ruling. With the exception of basic information, the city may withhold the remaining submitted information under section 552.108(a)(2) 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, 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,

A handwritten signature in black ink that reads "Jonathan Miles". The signature is written in a cursive style with a large initial "J" and "M".

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 368860

Enc. Submitted documents

c: Requestor
(w/o enclosures)