



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 30, 2010

Ms. Helen Valkavich
Assistant City Attorney
City of San Antonio
Post Office 839966
San Antonio, Texas

OR2010-04470

Dear Ms. Valkavich:

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# 374117 (COSA File No. 10-0028).

The City of San Antonio (the "city") received a request for all final reports viewed or generated by the Municipal Integrity Committee during a specified time period. You state some information will be released to the requestor. 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 us that a portion of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-01197 (2010). In that decision, we ruled that the information at issue was excepted from disclosure under section 552.108 of the Government Code. As we have no indication that the law, facts, or circumstances on which the prior ruling was based have changed, the department may continue to rely on that ruling as a previous determination and continue to treat any previously ruled upon information in accordance with that prior ruling.¹ See Open Records Decision No. 673 (2001) (so long as law, facts, and circumstances on which prior

¹As our ruling is dispositive of this information, we need not address your argument against its disclosure.

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). Accordingly, we will address your claimed exception for the submitted information not previously ruled on.

Section 552.108 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[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). By its terms, section 552.108 applies only to a law enforcement agency or a prosecutor. You state that the remaining information consists of investigations conducted by the city’s Office of Municipal Integrity (“OMI”). Section 552.108 is generally not applicable to records of an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (addressing statutory predecessor to section 552.108). You explain, however, that these administrative investigations were forwarded to the San Antonio Police Department, which is conducting criminal investigations into these matters. You assert that release of the remaining information would interfere with the criminal investigations. Based upon your representations and our review, we conclude the 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 under section 552.108(a)(1) of the Government Code.

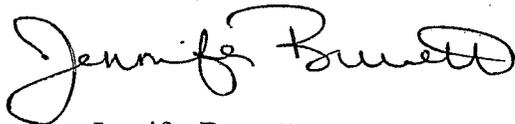
In summary, the city may continue to rely on Open Records Letter No. 2010-01197 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. The city may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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.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 cursive script that reads "Jennifer Burnett". The signature is written in black ink and is positioned to the left of the typed name.

Jennifer Burnett
Assistant Attorney General
Open Records Division

JB/dls

Ref: ID# 374117

Enc. Submitted documents

c: Requestor
(w/o enclosures)