



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2010

Mr. Jason D. King
Attorney for City of Balch Springs
Akers & Boulware-Wells, LLP
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Austin, Texas 78730

OR2010-10803

Dear Mr. King:

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# 392395.

The Balch Springs Police Department (the "department"), which you represent, received a request for two specified incident reports. The department also received a separate request for information pertaining to a specified incident. You claim 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 incident report number 10-100679 was the subject of a previous request received by the department, as a result of which this office issued Open Records Letter No. 2010-05453 (2010). We have no indication that there has been any change in the law, facts, or circumstances on which the previous ruling was based. We therefore conclude that the department may continue to rely on Open Records Letter No. 2010-05453 as a previous determination and withhold or release incident report number 10-100679 in accordance with that decision. *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 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). With respect to the information that was not previously ruled upon in Open Records Letter No. 2010 05453 we will address your argument against disclosure.

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 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). You state that incident report number 10-101771 pertains to a pending case, and that release of this information could hinder the criminal investigation and prosecution. Based on your representation and our review, we agree that section 552.108(a)(1) is applicable to incident report number 10-101771. *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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). With the exception of basic information, the department may withhold incident report number 10-101771 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,



Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/eb

Ref: ID# 392395

Enc. Submitted documents

c: Requestor
(w/o enclosures)