



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 6, 2010

Mr. John R. Batoon
Assistant City Attorney
City of El Paso
2 Civic Center Plaza
El Paso, Texas 79901

OR2010-18227

Dear Mr. Batoon:

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# 401902 (ORR #59448).

The City of El Paso (the "city") received a request for the service records of two named city police officers, including commendations and reprimands, and 9-1-1 audio recordings pertaining to a specified shooting incident. You state the service records of the two named police officers have been released with redactions pursuant to the previous determinations issued in Open Records Decision Nos. 670 (2001) and 684 (2009).¹ You claim 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 submitted an incident activity summary which is not responsive to the instant request. The request only seeks the 9-1-1 audio recordings pertaining to the specified

¹ Open Records Decision No. 670 authorizes a governmental body to withhold the home addresses and telephone numbers, personal cellular telephone and pager numbers, social security numbers, and family member information of its peace officers under section 552.117(a)(2) without the necessity of requesting an attorney general decision. Open Records Decision No. 684 authorizes a governmental body to withhold ten categories of information, including Texas drivers license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. We note Open Records Decision No. 684 is not applicable to motor vehicle title, registration, or vehicle identification numbers.

shooting incident. The submitted incident activity summary we marked does not constitute a 9-1-1 audio recording. This decision does not address the public availability of the non-responsive information, and the city need not release that information in response to this request.

Section 552.108(a)(1) 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[.]” Gov’t Code § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the 9-1-1 audio recordings relate to an ongoing criminal investigation by the city’s police department. Based on this representation and our review of the information at issue, we conclude the release of the 9-1-1 audio recordings 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) (court delineates law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the city may withhold the submitted 9-1-1 audio recordings under section 552.108(a)(1).

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,



Ana Carolina Vieira
Assistant Attorney General
Open Records Division

ACV/eeg

Ref: ID# 401902

Enc. Submitted documents

c: Requestor
(w/o enclosures)