



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 6, 2010

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

OR2010-18275

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# 402175 (COSA File No. 2010-6653).

The San Antonio Police Department (the "department") received a request for all information pertaining to department case number 00142503. 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.

All of the submitted information was the subject of a previous request for information received by the department, in response to which this office issued Open Records Letter No. 2010-11896 (2010). In that ruling, we determined the department: (1) must withhold the submitted CR-3 accident report pursuant to section 552.101 of the Government Code in conjunction with section 550.065 of the Transportation Code; (2) must withhold the information we marked under section 552.101 of the Government Code in conjunction with chapter 411 of the Government Code, common-law privacy, and the MPA; (3) must withhold the information we marked under section 552.1175 of the Government Code if the security officer at issue elects to keep the marked information confidential; (4) must withhold the information we marked under sections 552.130 and 552.136 of the Government Code; and (5) must release the remaining responsive information. You now seek to withhold the same information under section 552.108 of the Government Code.

Section 552.007 of the Government Code provides 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* Gov't Code § 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. As noted above, you now raise section 552.108 for the information we previously ordered released. 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), 177 (1977) (statutory predecessor to section 552.108 subject to waiver). The department does not present any law, and we are unaware of any, that expressly prohibits release of or makes confidential the information we previously ordered released. Furthermore, we have no indication the law, facts, or circumstances that were the basis of our prior ruling have changed. *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). Thus, we conclude the department must continue to rely on Open Records Letter No. 2010-11896 as a previous determination and withhold or release all of the submitted information in accordance with that ruling.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tf

Ref: ID# 402175

Enc. Submitted documents

c: Requestor
(w/o enclosures)