



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 16, 2012

Ms. Leticia Mendiola
Crime Records Office
McAllen Police Department
P.O. Box 220
McAllen, Texas 78501

OR2012-05433

Dear Ms. Mendiola:

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# 454943.

The McAllen Police Department (the "department") received a request for a specified incident report. 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 the submitted information may be the subject of Open Records Letter No. 2012-01548 (2012). In that decision, we ruled that, with the exception of basic information, the requested information 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, we conclude that, for the portions of the report that existed when that ruling was issued, the department may continue to rely on that ruling as a previous determination. *See* Open Records Decision No. 673 (2001) (governmental body may rely on previous determination when records or information at issue are precisely same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); governmental body which received request for records or information is same governmental body that previously requested and received ruling from attorney general; prior ruling concluded that precise records or information are or are not excepted from disclosure under Act; and law, facts, and circumstances on which prior ruling was based have not changed since issuance of ruling).

To the extent new information was created since Open Records Letter No. 2012-01548 was issued, we turn to your argument under section 552.108 of the Government Code. Section 552.108 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.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal prosecution. Based on this representation and our review, we conclude the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. *See Houston Chronicle Publ’g Co. v. Department 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).

In summary, for the portions of the report that existed when Open Records Letter No. 2012-01548 was issued, the department may continue to rely on that ruling as a previous determination. The department may withhold any remaining information under section 552.108 of the Government Code.

This 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/ag

Ref: ID# 454943

Enc. Submitted documents

c: Requestor
(w/o enclosures)