



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 20, 2012

Ms. Michelle Weiser
Schneider, Krugler, Kleinschmidt & Weiser, P.C.
P.O. Box 507
Giddings, Texas 78942

OR2012-11313

Dear Ms. Weiser:

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# 459407.

The Lexington Police Department (the "department"), which you represent, received a request for information pertaining to audio or video recordings and photographs related to the requestors, another named individual, and certain property; and all calls for service during a specified time period, including a specified officer's audio and video while at a specified location. You state some responsive information will be released. We understand you to 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. We have also considered comments submitted by the requestors. *See Gov't Code § 552.304* (providing that interested party may submit comments stating why information should or should not be released).

You state the department sought clarification of part of the request. *See Gov't Code § 552.222* (if request for information is unclear, governmental body may ask requestor to clarify request); *see also City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over-broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed). You indicate the department has not received a response to the request for clarification. Thus, for the portion of the requested information for which you have sought but have not received

clarification, the department is not required to release information in response to that portion of the request. However, if the requestors clarify that portion of the request for information, the department must seek a ruling from this office before withholding any responsive information from the requestors. *See id.*

We next note that the submitted information includes report number 2012-00086, which was the subject of a previous request for a ruling, as a result of which this office issued Open Records Letter No. 2012-08200 (2012). In that decision, we determined that report number 2012-00086 must be withheld under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. You do not indicate the law, facts, or circumstances on which the prior ruling was based have changed. Thus, we conclude the department must rely on Open Records Letter No. 2012-08200 as a previous determination and withhold report number 2012-00086 in accordance with that prior ruling. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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[.]” 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); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

You assert release of the remaining submitted information would interfere with a pending criminal case. Based on your representation and our review of the information at issue, we find you have demonstrated that release of the 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) (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).

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; *see also* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, the department may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold report number 2012-00086 in accordance with the ruling in Open Records Letter No. 2012-08200. With the exception of basic information, the department may withhold the remaining submitted information under section 552.108 of the Government Code.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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 459407

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note basic information includes an arrested person's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). The requestor has a right, however, to his own social security number. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles).