



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 5, 2012

Mr. Michael Lee Garza
Assistant Criminal District Attorney
Hidalgo County
100 North Closner, Room 303
Edinburg, Texas 78539

OR2012-14054

Dear Mr. Garza:

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# 463912.

The Hidalgo County Sheriff's Office (the "sheriff's office") received a request for the investigation file regarding a specified shooting incident. 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 representative sample of information.¹

Initially, we note a portion of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-12678 (2012). In that ruling, we held the sheriff's office may withhold the 9-1-1 recordings under section 552.108(a)(1) of the Government Code. As we have no indication the law, facts, or circumstances upon which the prior ruling was based have changed, we conclude the sheriff's office may rely on Open Records Letter No. 2012-12678 as a previous

¹We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. See Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

determination and withhold the information at issue in accordance with it. *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 the information is or is not excepted from disclosure.) We will next address your arguments under section 552.108 against release of the information not encompassed by Open Records Letter No. 2012-12678.

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 claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the submitted information relates to a pending criminal prosecution. Based on your representation and our review, we conclude the release of this 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). Thus, section 552.108(a)(1) is applicable to the submitted information.

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). Basic information refers to the basic “front-page” information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-87. Basic information must be released, even if it does not literally appear on the front page of the report. *See* 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, which must be released, the sheriff’s office may withhold the submitted information under section 552.108(a)(1).

In summary, the sheriff’s office may rely on Open Records Letter No. 2012-12678 as a previous determination and withhold the previously ruled upon information in accordance with that ruling. With the exception of basic information, which must be released, the sheriff’s office may withhold the submitted information 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,

A handwritten signature in black ink, appearing to read "Kristi L. Wilkins". The signature is written in a cursive, flowing style.

Kristi L. Wilkins
Assistant Attorney General
Open Records Division

KLW/ag

Ref: ID# 463912

Enc. Submitted documents

c: Requestor
(w/o enclosures)