



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 26, 2013

Mr. Gerard A. Calderon  
Assistant Criminal District Attorney  
Bexar County  
300 Dolorosa, Fifth Floor  
San Antonio, Texas 78205

OR2013-20552

Dear Mr. Calderon:

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# 507026.

The Bexar County Sheriff's Office (the "sheriff's office") received a request for dispatch logs and audio recordings of calls pertaining to a specified incident. You claim the submitted information is excepted from disclosure under section 552.108 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the submitted information.

Initially, you inform us there was an unauthorized release of the audio recordings at issue. Section 552.007 of the Government Code provides that if a governmental body voluntarily released 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 under law. *See Gov't Code § 552.007; Open Records Decision No. 518 at 3 (1989)*. However, we note a governmental body is not precluded from

---

<sup>1</sup>Although you also raise section 552.101 of the Government Code, you have not provided any argument to support this exception. Therefore, we do not address section 552.101. *See Gov't Code §§ 552.301(e)(1)(A), .302.*

invoking an exception to further public disclosure of information that has been released through no official action and against the wishes and policy of the governmental body. *See* Open Records Decision No. 376 at 2 (1983); *see also* Open Records Decision No. 387 at (3) (1983) (information that is not voluntarily released by a governmental body, but nevertheless comes into another party's possession, is not henceforth automatically available to everyone). You state, and provide documentation demonstrating, the release of the audio recordings was unauthorized, against the wishes and policy of the sheriff's office, and has resulted in the sheriff's office proposing to dismiss the employee responsible. Because the sheriff's office states it did not voluntarily release the information at issue, we conclude the sheriff's office did not waive its claim under section 552.108.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) 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 information at issue relates to an ongoing criminal investigation. Based on this representation, we find release of the submitted 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, we find section 552.108(a)(1) is applicable to the submitted information.

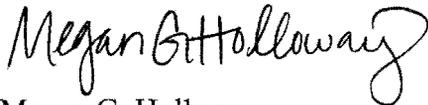
However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the sheriff's office may withhold the submitted information 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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink that reads "Megan G. Holloway". The signature is written in a cursive style with a large, looping 'G' at the end.

Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/dls

Ref: ID# 507026

Enc. Submitted documents

c: Requestor  
(w/o enclosures)