



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 6, 2014

Mr. Daniel Ortiz
Assistant City Attorney
City of El Paso
P.O. Box 1890
El Paso, Texas 79950-1890

OR2014-00258

Dear Mr. Ortiz:

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# 510893 (El Paso ORR Nos. 13-1026-3661, 13-1026-3740, 13-1026-3731)

The El Paso Police Department (the "department") received three requests for information pertaining to a specified incident. The department claims the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

Initially, we note some of the submitted information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-20629 (2013). In that ruling, we determined the department must (1) withhold the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code in accordance with the previous determination issued to the department in Open Records Letter No. 2003-0708 (2003); (2) withhold identifying information of a child victim under section 552.101 of the Government Code in conjunction with common-law privacy, unless the requestor at issue had a right of access to such information under section 552.023 of the Government Code; and (3) release the remaining information. You now seek to withhold this 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. 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). Therefore, the department may not now withhold any of this information on that ground. We have no indication the law, facts, and circumstances on which the prior ruling was based have changed. Accordingly, the department must continue to rely on Open Records Letter No. 2013-20629 as a previous determination and withhold or release the information at issue in that ruling in accordance with that ruling.

The department asserts the remaining information is excepted from disclosure under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state the remaining information pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree the department may withhold the remaining information under section 552.108(a)(2) of the Government Code.¹

To conclude, the department must continue to rely on Open Records Letter No. 2013-20629 as a previous determination and withhold or release the information at issue in accordance with that ruling. The department may withhold the remaining information under section 552.108(a)(2) of the Government Code.

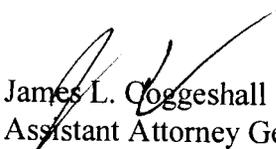
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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.texasattorneygeneral.gov/open/>

¹As our ruling is dispositive, we do not address your other arguments to withhold this information.

[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,



James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/tch

Ref: ID# 510893

Enc. Submitted documents

c: Two Requestors
(w/o enclosures)

