



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 4, 2014

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

OR2014-21971

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# 547801 (Request 2014-0123-DA).

The Hidalgo County District Attorney's Office (the "district attorney's office") received a request for certain categories of information regarding a specified incident pertaining to a named Texas Department of Public Safety trooper, Texas Game Wardens, and Texas Ranger reports, excluding social security numbers, personal telephone numbers, personal addresses, and financial information.¹ 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 representative sample of information.²

¹You state, and submit supporting documentation which demonstrates, the district attorney's office sought and received clarification of the request for information. *See* Gov't Code § 552.222(b) (stating if information requested is unclear to governmental body or if large amount of information has been requested, governmental body may ask requestor to clarify or narrow request, but may not inquire into purpose for which information will be used).

²This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. *See* Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

Initially, we note some of the requested information may have been the subject of previous requests for information, as a result of which this office issued Open Records Letter Nos. 2014-03906 (2014) and 2014-07910 (2014). In Open Records Letter No. 2014-03906, we determined the district attorney's office must release the audio and video recordings at issue pursuant to section 552.302 of the Government Code. In Open Records Letter No. 2014-07910, we determined the district attorney's office may withhold the autopsy report at issue under section 552.108(a)(2) of the Government Code. There is no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, to the extent the requested information is identical to the audio and video recordings previously requested and ruled upon by this office in Open Records Letter No. 2014-03906, the district attorney's office must continue to rely on the prior ruling as a previous determination and release the audio and video recordings at issue in accordance with that ruling. To the extent the requested information is identical to the autopsy report previously requested and ruled upon by this office in Open Records Letter No. 2014-07910, the district attorney's office may continue to rely on the prior ruling as a previous determination and withhold that information in accordance with that 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). However, the remaining requested information was not at issue in the previous rulings. Accordingly, we will address your argument against disclosure of this information.

Section 552.108(a)(2) 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: . . . (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertains to a criminal case that concluded in a result other than conviction or deferred adjudication. Based on your representation, we agree section 552.108(a)(2) is applicable to the submitted information.

We note, however, section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing the types of information considered to be basic information). Thus, with the exception of the

basic information, the district attorney's office may withhold the submitted information under section 552.108(a)(2).

In summary, to the extent the requested information is identical to the audio and video recordings previously requested and ruled upon by this office in Open Records Letter No. 2014-03906, the district attorney's office must continue to rely on the prior ruling as a previous determination and release the audio and video recordings at issue in accordance with that ruling. To the extent the requested information is identical to the autopsy report previously requested and ruled upon by this office in Open Records Letter No. 2014-07910, the district attorney's office may continue to rely on the prior ruling as a previous determination and withhold that information in accordance with that ruling. With the exception of the basic information, the district attorney's office may withhold the submitted 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/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,



Lindsay E. Hale
Assistant Attorney General
Open Records Division

LEH/akg

Ref: ID# 547801

Enc. Submitted documents

c: Requestor
(w/o enclosures)