



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2012

Mr. Gerard A. Calderon
Assistant Criminal District Attorney
Bexar County Criminal District Attorney's Office
300 Dolorosa, Fifth Floor
San Antonio, Texas 78205-3030

OR2012-17219

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# 469110.

The Bexar County Sheriff's Office (the "sheriff's office") received a request for the crime scene photographs and audio recording of the 9-1-1 call regarding a specified incident, the sheriff's office's use of force policy, the first name and rank for two named officers, and information about Acadian Unit #597. You claim the requested information is excepted from disclosure under section 552.108 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have only submitted information pertaining to the requested crime scene photographs and recording of the 9-1-1. You state you have submitted a representative sample of information; however, no portion of the submitted representative sample pertains to the requested use of force policy, the first name and rank for two named officers, or information about Acadian Unit #597. Thus, we find the submitted information is not representative of all the information sought in the request for information. Please be advised this ruling applies to only the types of information you have submitted for our review. Therefore, this ruling does not authorize the withholding of any other requested records to the extent those records contain substantially different types of information than that submitted to this office. *See id.* § 552.302 (where request for attorney general decision does

¹Although you raise section 552.101 of the Government Code, you make no arguments to support this exception. Therefore, we assume you have withdrawn your claim this section applies to the submitted information. *See Gov't Code* §§ 552.301, .302.


not comply with requirements of section 552.301, information at issue is presumed public). To the extent any information responsive to the request for the use of force policy, the first name and rank for two named officers, or information about Acadian Unit #597 existed on the date the sheriff's office received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See id.* §§ 552.301, .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to the requested information, it must release information as soon as possible).

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 investigation. Based upon this representation and our review, we conclude release of the information at issue 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). Accordingly, we conclude 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,


Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/som

Ref: ID# 469110

Enc. Submitted documents

c: Requestor
(w/o enclosures)