



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

August 13, 2019

Mr. James Kopp  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78207

OR2019-22297

Dear Mr. Kopp:

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# 780196 (ORR# W266414).

The City of San Antonio (the "city") received a request for three arrest reports related to the requestor's client. You claim the submitted information is excepted from disclosure under section 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note, you have only submitted arrest reports for report numbers SAPD17061373 and SAPD17215508. To the extent any additional information responsive to this request existed and was maintained by the city on the date the city received the request, we assume the city has released it. If the city has not released any such information, it must do so at this time. Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes no exceptions apply to requested information, it must release information as soon as possible).

Further, we note some of the submitted information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2019-14109 (2019). In that ruling, we determined the city must withhold the submitted information pursuant to section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. We have no indication the law, facts, or circumstances on which the prior rulings were based have changed. Accordingly, the city must continue to rely on Open Records Letter No. 2019-14109 as a previous determination and withhold the information

at issue in accordance with that ruling.<sup>1</sup> *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 information is or is not excepted from disclosure).

Section 552.108 of the Government Code provides, in relevant part, the following:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or]

Gov't Code § 552.108(a)(1). Section 552.108(a)(1) protects information, the release of which would interfere with a particular pending criminal investigation or prosecution. A governmental body raising section 552.108 must explain the applicability of section 552.108. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The city states the submitted information is related to a “pending prosecution by the Bexar County District Attorney’s Office.” Based on this representation, we conclude the 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). Thus, section 552.108(a)(1) is applicable to report number SAPD17215508.

However, we note 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 information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the city may withhold report number SAPD17215508 under section 552.108(a)(1) of the Government Code.<sup>2</sup>

In summary, the city must continue to rely on Open Records Letter No. 2019-14109 as a previous determination and withhold report number SAPD17061373 in accordance with that

---

<sup>1</sup>As we are able to make this determination, we need not address the city’s arguments against disclosure of this information.

<sup>2</sup>As our ruling is dispositive for this information, we need not address the remaining argument against its disclosure.

ruling. With the exception of the basic information, the city may withhold report number SAPD17215508 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.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,



Sean McCormick  
Attorney  
Open Records Division

SMC/eb

Ref: ID# 780196

Enc. Submitted documents

c: Requestor  
(w/o enclosures)