



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 22, 2009

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2009-15022

Dear Ms. Armstrong:

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# 359001 (DPD ORR 2009-6204).

The Dallas Police Department (the "department") received a request for information related to a specified location. You claim that portions of the submitted information you have marked are 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.<sup>1</sup>

Initially, we note that a portion of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-02665 (2009). In that ruling, we found the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. We conclude the department may continue to rely upon Open Records Letter No. 2009-02665 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, 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 that information is or is not excepted from disclosure). However, we will address your arguments regarding the submitted information that has not been previously ruled upon.

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<sup>1</sup>We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

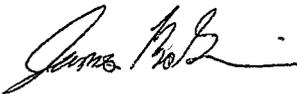
Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, 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.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information relates to a pending criminal investigation involving an alleged aggravated assault that occurred on January 26, 2009. However, we note that the remaining information, report number 0086696-W, relates to an alleged homicide that occurred on March 29, 2009. You have failed to establish that report number 0086696-W pertains to an ongoing criminal investigation or prosecution, and you have not explained how its release would interfere with the detection, investigation, or prosecution of crime. *See* Gov’t Code § 552.108(a)(1). Thus, you have failed to establish that section 552.108(a)(1) is applicable to portions of the remaining information you have marked. Therefore, the remaining information must be released.

In summary, the department may continue to rely upon Open Records Letter No. 2009-02665 as a previous determination and withhold the information at issue in report number 0025322-W. As you raise no further exceptions to disclosure of this information, it must be released to the requestor.

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](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,



James McGuire  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 359001

Enc. Submitted documents

c: Requestor  
(w/o enclosures)