



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 14, 2009

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2009-17652

Dear Ms. Brown:

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# 364227.

The Plano Police Department (the "department") received a request for (1) the name of the department's "IT person;" (2) the department's policies and procedures regarding uploading and preserving video recordings of driving while intoxicated ("DWT") arrests; (3) the personnel records of two named officers; (4) the total number of DWI arrests made by the named officers; and (5) all computer-aided dispatch ("CAD") and mobile data terminal ("MDT") records involving the named officers and a specified time period. You state the department has no information responsive to the request for the total number of DWI arrests made by the named officers.<sup>1</sup> You also state the information responsive to the request for the name of the department's "IT person" was previously provided to the requestor. You claim the submitted personnel, CAD, and MDT records are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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<sup>1</sup>The Act does not require a governmental body that receives a request for information to create information that did not exist when the request was received. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed); Open Records Decision Nos. 605 at 2 (1992), 563 at 8 (1990), 555 at 1-2 (1990), 452 at 3 (1986), 362 at 2 (1983).

Initially, you indicate the department has withheld the named officers' internal department personnel records, which are generally confidential under section 143.089(g) of the Local Government Code, because you state the requestor has specifically excluded confidential information from her request. Accordingly, you state the department has submitted only the named officers' civil service file personnel records as responsive to the request for personnel records of the two named officers.<sup>2</sup> Based on our review of the request, we agree the requestor has excluded confidential information from the information she seeks. Thus, we will address your claim under section 552.108 for the submitted personnel records, as well as the submitted CAD and MDT records.

Next, you inform us the requested information regarding the policies and procedures involving DWI arrest video recordings was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2009-11783 (2009). In that ruling, we concluded the department may withhold the information at issue under section 552.108(a)(1) of the Government Code. As we have no indication the law, facts, and circumstances on which the prior ruling was based have changed, the department must continue to rely on that ruling as a previous determination and withhold the previously ruled upon information in accordance with Open Records Letter No. 2009-11783. *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 that information is or is not excepted from disclosure).

Section 552.108 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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us the submitted personnel records pertain to department officers who are potential witnesses in a pending criminal investigation and prosecution. You state the submitted CAD and MDT records pertain to the same pending criminal investigation and prosecution. You also state the Collin County District Attorney's Office, which is prosecuting the case, has advised the release of the submitted personnel, CAD, and MDT records would interfere with the ongoing criminal prosecution. Based on your representations, we conclude the release of the submitted information 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), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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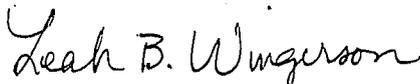
<sup>2</sup>As such, we need not address your claim under section 552.101 of the Government Code.

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant and a detailed description of the offense. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (summarizing types of information considered to be basic information). In Open Records Decision No. 649 (1996), this office concluded information contained in a CAD report is substantially the same as basic information and, thus, is not excepted from public disclosure under section 552.108. See ORD 649 at 3; see also Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, with the exception of the basic information contained in the submitted CAD reports, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. We note you have the discretion to release all or part of this information that is not otherwise confidential by law. *Id.* § 552.007.

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,



Leah B. Wingerson  
Assistant Attorney General  
Open Records Division

LBW/dls

Ref: ID# 364227

Enc. Submitted documents

c: Requestor  
(w/o enclosures)