



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 17, 2012

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

OR2012-00752

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# 442527 (ORR# 2011-9833).

The Dallas Police Department (the "department") received a request for information related to control number 2011-324 pertaining to a named police officer. You claim that portions of the submitted information are excepted from disclosure under sections 552.108 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note the submitted information appears to be the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2011-07185 (2011) and 2011-16025 (2011). In these rulings, we concluded with the exception of basic information, the department may withhold some of the submitted information under sections 552.108(a)(1) of the Government Code and must withhold other marked information

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<sup>1</sup>We assume 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 those records contain substantially different types of information than that submitted to this office.

under sections 552.101, 552.117, 552.130, and 552.136 of the Government Code. We are unaware of any change in the law, facts, and circumstances on which the previous rulings are based. Therefore, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, the department must continue to rely on these rulings as previous determinations and withhold or release the identical information in accordance with Open Records Letter Nos. 2011-07185 and 2011-16025. *See* Gov't Code § 552.301(f); 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). To the extent the submitted information is not encompassed by the previous rulings, we will address the raised exceptions.

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 claiming section 552.108(a)(1) 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).

In this instance, the submitted information consists of records of an internal affairs investigation. Section 552.108 is generally not applicable to the records of an internal affairs investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982).

You state the submitted information pertains to an active criminal “investigation/prosecution.” Based on your representation, we find the release of the marked information at issue generally 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).

However, the information at issue contains a citation. Because a copy of the citation has been provided to the individual who was cited, we find that its release will not interfere with the detection, investigation, or prosecution of crime. *See* Gov't Code § 552.108(a)(1). Therefore, the department may not withhold the submitted citation under

section 552.108(a)(1). Thus, with the exception of the submitted citation, we find section 552.108(a)(1) is applicable to the information you have marked, and the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.

Finally, section 552.130 of the Government Code provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by an agency of this state or another state or country is excepted from public release. *Id.* § 552.130(a). The department must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon by this office, the department may continue to rely on Open Records Letter Nos. 2011-16025 and 2011-07185 as previous determinations and withhold or release the identical information in accordance with those rulings. With the exception of the submitted citation, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the motor vehicle record information you have marked and the additional information we have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Cindy Nettles  
Assistant Attorney General  
Open Records Division

CN/dls

Ref: ID# 442527

Enc. Submitted documents

c: Requestor  
(w/o enclosures)