



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 10, 2012

Ms. Sylvia McClellan  
Assistant City Attorney  
City of Dallas  
1400 South Lamar  
Dallas, Texas 75215

OR2012-05131

Dear Ms. McClellan:

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# 450298 (DPD Request No. 2012-00770).

The Dallas Police Department (the "department") received a request for information pertaining to a specified internal affairs case number. You claim that the requested information is 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, you inform us that some of the requested information was the subject of a previous ruling issued by this office in Open Records Letter No. 2011-16807 (2011). In that ruling, we determined the department may withhold a portion of the information at issue under section 552.108(a)(1) of the Government Code, must withhold a portion of the information at issue under section 552.130 of the Government Code, but must release the remaining information at issue. Accordingly, to the extent the information has remained the same, the department must continue to rely on this ruling as a previous determination and withhold or release the information at issue in accordance with this prior ruling. *See* Open Records

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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.

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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, you state that some of the requested information was revised and added to after submission of the prior ruling request, and therefore is not subject to the prior ruling. Accordingly, we will consider your arguments against disclosure of this information.

Section 552.108(a) 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: (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.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977).

The information at issue is part of an internal affairs investigation. We note section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. *See 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). However, you explain the information at issue relates to a pending criminal investigation, and you inform us the Dallas County District Attorney’s Office has requested that it be withheld. Based upon this representation, we conclude section 552.108(a)(1) is applicable and 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).

However, 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). Section 552.108(c) refers to the basic “front-page” information held to be public in *Houston Chronicle*, 531 S.W.2d 177. *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be “basic information.”). Therefore, with the exception of basic information, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.

In summary, to the extent the requested information is the same information that was previously ruled upon in Open Records Letter No. 2011-16807, the department must continue to rely upon that ruling and withhold or release the information in accordance with our ruling. To the extent the information was not previously ruled upon, with the exception

of basic information, the department may withhold the information under section 552.108 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](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,

A handwritten signature in black ink, appearing to read 'Ben B', with a long horizontal flourish extending to the right.

Benjamin A. Bellomy  
Assistant Attorney General  
Open Records Division

BAB/eb

Ref: ID# 450298

Enc. Submitted documents

c: Requestor  
(w/o enclosures)