



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

September 21, 2012

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

OR2012-15101

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# 465626 (DPD Request No. 2012-07893).

The Dallas Police Department (the "department") received a request for all records related to control number 2012-124. 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.¹

Initially, we note some of the submitted information, which we have marked, was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2012-13505 (2012). We have no indication that the law, facts, or circumstances on which this prior ruling was based have changed. Accordingly, we conclude the department must continue to rely on this ruling as a previous determination and withhold or release the previously ruled upon information in accordance with Open Records Letter No. 2012-13505. *See* Open Records Decision No. 673 at 6-7 (2001) (so long as law, facts,

¹We 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 those submitted to this office.

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). We address your argument against disclosure for the information not addressed in the previous ruling.

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); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note portions of the information at issue consists of internal affairs records. Section 552.108 generally is not applicable to purely administrative records that did not result in a criminal investigation or prosecution. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App. 2002, no pet); *Morales v. Ellen*, 840 S.W.2d 519, 525-526 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor not applicable to internal investigation that did not result in criminal investigation or prosecution); Open Records Decision No. 562 at 10 (1990). However, you state the information at issue relates to a pending criminal investigation and prosecution. Based on your representation, we conclude section 552.108(a)(1) is applicable in this instance. *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 present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, the department may generally withhold the remaining information under section 552.108(a)(1) of the Government Code.

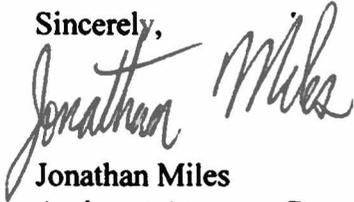
However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle* and includes, but is not limited to, a detailed description of the offense. *See* 531 S.W.2d at 186-187; Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold or release the previously ruled upon information we have marked in accordance with in Open Records Letter No. 2012-13505. With the exception of basic information, the department may withhold the remaining information 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.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 cursive script that reads "Jonathan Miles". The signature is written in black ink and is positioned above the typed name.

Jonathan Miles
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 465626

Enc. Submitted documents

c: Requestor
(w/o enclosures)