



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2013

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

OR2013-21857

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# 508462 (Dallas ORR# 2013-11396).

The Dallas Police Department (the "department") received a request for all control number reports for August 2013. You claim portions of the requested information are exempted from disclosure under sections 552.108, 552.117, and 552.136 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Section 552.108(a)(1) of the Government Code exempts 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).

¹Although you also raise section 552.101 of the Government Code in conjunction with common-law privacy, you make no arguments in support of this exception, nor have you marked any information as being exempted under section 552.101. Accordingly, we assume you have withdrawn your claim under this exception. See Gov't Code §§ 552.301, .302.

²We 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.

A governmental body claiming section 552.108 must reasonably explain how and why 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). Section 552.108 is generally not applicable to records of an internal affairs investigation that is purely administrative in nature and does not involve the criminal investigation or prosecution of an officer's alleged misconduct. *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 City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.) (section 552.108 not applicable to information police department holds as employer); Open Records Decision No. 350 at 3-4 (1982).

In this instance, the submitted information pertains to an internal affairs investigation. However, you explain the submitted report pertains to a pending investigation or prosecution of crime. You argue release of the marked information “could hinder the criminal investigation and/or prosecution at this time.” Based on these representations and our review, we conclude release of the marked 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) (court delineates law enforcement interests present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

Section 552.117(a)(2) of the Government Code excepts from public disclosure the home addresses, home telephone numbers, emergency contact information, and social security number of a peace officer, as well as information that reveals whether the peace officer has family members, regardless of whether the peace officer complies with section 552.024 or section 552.1175 of the Government Code.³ Gov't Code § 552.117(a)(2). We understand you to represent that the information you have marked under section 552.117 consists of the home address of a peace officer. Accordingly, we agree the department must withhold the information you have marked under section 552.117(a)(2) of the Government Code.

Section 552.136(b) of the Government Code states “[n]otwithstanding any other provision of [the Act], a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136(b); *see id.* § 552.136(a) (defining “access device”). The remaining information contains employee identification numbers. We understand an employee identification number is the same number used for the city credit union accounts plus one additional number. Thus, the department must withhold the employee identification numbers you have marked under section 552.136 of the Government Code.

³“Peace officer” is defined by article 2.12 of the Texas Code of Criminal Procedure.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the information you have marked under sections 552.117 and 552.136 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/tch

Ref: ID# 508462

Enc. Submitted documents

c: Requestor
(w/o enclosures)