



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 28, 2014

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

OR2014-01600

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# 512124 (DPD ORR# 2013-12641).

The Dallas Police Department (the "department") received a request for records related to a specified investigation. The department indicates it has made some of the requested information available to the requestor, but claims some of the submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.117, 552.130, and 552.136 of the Government Code.<sup>1</sup> We have considered the claimed exceptions and reviewed the submitted representative sample of information.<sup>2</sup>

Initially, you inform us some of the requested information was the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2013-17453 (2013). In Open Records Letter No. 2013-17453, we determined the

---

<sup>1</sup>We understand the department to assert sections 552.102 and 552.130 based on its markings.

<sup>2</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.

department (1) may withhold some information under section 552.108(a)(1) of the Government Code, (2) must withhold an employee number under section 552.136 of the Government Code, and (3) must release the remaining information. You inform us the law, facts, and circumstances on which the prior ruling was based have not changed. Accordingly, to the extent the information in the current request is identical to the information previously requested and ruled upon by this office, we conclude the department must continue to rely on Open Records Letter No. 2013-17453 as a previous determination and withhold or release the information in accordance with that ruling. However, because you inform us some of the submitted information is not encompassed by the previous determination, we will address your argument against disclosure of this information.

Section 552.108(a)(1) 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 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 remaining information relates to an internal affairs investigation. We note 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 (Tex. 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 state the information you have marked under section 552.108 relates to a pending criminal investigation or prosecution. Based on your representation and our review, we conclude 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 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.<sup>3</sup>

Section 552.117(a)(1) of the Government Code excepts from disclosure the home addresses and telephone numbers, emergency contact information, social security numbers, and family member information of current or former officials or employees of a governmental body who request that this information be kept confidential under section 552.024 of the Government Code. Gov’t Code § 552.117(a)(1). Whether information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open

---

<sup>3</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

Records Decision No. 530 at 5 (1989). Therefore, the department may only withhold information under section 552.117(a)(1) on behalf of a current or former employee who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Such information may not be withheld for an individual who did not make a timely election. Upon review, we find you have failed to establish section 552.117(a)(1) is applicable to any of the remaining information. Therefore, the department may not withhold any of the remaining information on that ground.

Section 552.136 of the Government Code provides in part the following:

(a) In this section, "access device" means a card, plate, code, account number, personal identification number, electronic serial number, mobile identification number, or other telecommunications service, equipment, or instrument identifier or means of account access that alone or in conjunction with another access device may be used to:

(1) obtain money, goods, services, or another thing of value; or

(2) initiate a transfer of funds other than a transfer originated solely by paper instrument.

(b) Notwithstanding any other provision of this chapter, 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.

Gov't Code § 552.136(a)-(b). You inform us an employee's identification number is used in conjunction with one additional digit in order to access the employee's credit union account. Thus, we agree the department must withhold the identification number you have marked in the remaining information under section 552.136 of the Government Code.<sup>4</sup>

To conclude, the department must continue to rely on Open Records Letter No. 2013-17453 as a previous determination and withhold or release the information we previously ruled on in accordance with that prior ruling. The department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the identification number you have marked in the remaining information under section 552.136 of the Government Code. The department must release the remaining information.

---

<sup>4</sup>We note section 552.136 of the Government Code permits a governmental body to withhold the information described in section 552.136(b) without the necessity of seeking a decision from this office. *See* Gov't Code § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(d), (e).

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](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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tch

Ref: ID# 512124

Enc. Submitted documents

c: Requestor  
(w/o enclosures)