



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 7, 2014

Ms. Teresa J. Brown  
Senior Open Records Assistant  
Plano Police Department  
P.O. Box 860358  
Plano, Texas 75086-0358

OR2014-11622

Dear Ms. Brown:

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# 531352 (ORR No. QEWS121013).

The Plano Police Department (the “department”) received a request for information pertaining to a specified incident. You state the department released some of the requested information. You claim the submitted 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>

Section 552.301 of the Government Code prescribes the procedures that a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. Gov’t Code § 552.301(b). Pursuant to section 552.301(e), a governmental body must submit to this office within fifteen business days of receiving an open records request (1) written comments stating the reasons why the stated exceptions

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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.

apply that would allow the information to be withheld, (2) a copy of the written request for information, (3) a signed statement or sufficient evidence showing the date the governmental body received the written request, and (4) a copy of the specific information requested or representative samples, labeled to indicate which exceptions apply to which parts of the documents. *Id.* § 552.301(e). The department informs us it received the request for information on December 10, 2013. The department also affirmatively represents it sent the information required by section 552.301 to this office by first class United States mail on December 23, 2013. Based on the department's representations and our review of the information at issue, we find the department has provided satisfactory proof it complied with the procedural requirements of section 552.301 of the Government Code in requesting this decision. *See id.* § 552.308(a)(2). Accordingly, we will address the department's claimed exception for the submitted information.

We note a portion of the requested information was the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2014-01631 (2014). In that ruling, we determined with the exception of the basic information, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. We have no indication there has been any change in the law, facts, or circumstances on which the previous ruling was based. Accordingly, to the extent the information at issue is identical to the information previously requested and ruled upon by this office, we conclude the department may rely on Open Records Letter No. 2014-01631 as a previous determination and withhold or release the identical information in accordance with that ruling. *See* 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 information at issue is not encompassed by the previous ruling, we will address your argument against its release.

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(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). You state the submitted information pertains to a pending investigation. We note, however, the information at issue includes a DIC-24 Statutory Warning. The department provided a copy of this form to the arrestee. You have not explained how releasing this information, which was provided to the arrestee, would interfere with the detection, investigation, or prosecution of a crime. *See* Gov't Code § 552.108(a)(1). Accordingly, the DIC-24 form may not be withheld under section 552.108(a)(1). However, based on your representations and our

review, we conclude the release of the remaining 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 that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the remaining information. Thus, with the exception of the DIC-24 form, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.

In summary, to the extent the information at issue is identical to the information previously requested and ruled upon by this office, the department must rely on Open Records Letter 2014-01631 as a previous determination and withhold or release the previously ruled upon information in accordance with that ruling. With the exception of the DIC-24 form, the department may withhold the submitted 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.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,



Megan G. Holloway  
Assistant Attorney General  
Open Records Division

MGH/akg

Ref: ID# 531352

Enc. Submitted documents

c: Requestor  
(w/o enclosures)