



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 18, 2009

Ms. Leticia D. McGowan
School Attorney
Dallas Independent School District
3700 Ross Avenue
Dallas, Texas 75204

OR2009-16398

Dear Ms. McGowan:

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# 361814.

The Dallas Independent School District (the "district") received four requests for a report the district sent to the Texas Education Agency on August 31, 2009, pertaining to the district's investigation of testing irregularities during administration of the Texas Assessment of Knowledge and Skills exam at a specified school. You claim the submitted report is excepted from disclosure under sections 552.108, 552.116, 552.117, 552.130, and 552.135 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

You inform us that a portion of the requested information is the subject of a previous request for information, as a result of which this office issued Open Records Letter No. 2009-13438 (2009). In that ruling, we found that the district may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code. With regard to information in the current request that is identical to the information previously requested and ruled upon by this office, we conclude that, as we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, the district must continue to rely on the ruling as a previous determination and withhold this information in accordance with Open Records Letter No. 2009-13438 (2009). *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). We will address your arguments regarding the remaining information, which has not been previously ruled upon.

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). You state the district employs commissioned peace officers with the authority to enforce the criminal provisions of the Texas Penal Code. You also state the submitted report constitutes these district officers’ preliminary findings regarding their investigation of the testing irregularities. You represent these district officers’ investigation into this matter is still open. Based on your representations and our review, we determine release of the submitted report 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), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Consequently, we conclude the district may withhold the submitted report under section 552.108(a)(1) of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against disclosure.

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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/cc

Ref: ID# 361814

Enc. Submitted documents

cc: Requestor
(w/o enclosures)