



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 16, 2010

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

OR2010-03714

Dear Ms. Middlebrooks:

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# 374177 (ORR #2010-00284).

The Dallas Police Department (the "department") received a request for eleven specified police reports. You claim that portions of the submitted information are 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 that some of the requested information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2010-01183 (2010), 2009-18354 (2009), and 2009-06210 (2009). You do not indicate that the law, facts, and circumstances on which Open Records Letter Nos. 2010-01183 and 2009-06210 are based have changed. We therefore conclude that the department may continue to rely on Open Records Letter Nos. 2010-01183 and 2009-06210, and withhold or release the information in report numbers 104384-W and 380137-W in reliance on those prior rulings. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)).

¹We 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.

While report number 281085-W was also the subject of a prior ruling from this office, the requestor in Open Records Letter No. 2009-18354 had a right of access to the information at issue. However, this request involves a different requestor with no special right of access to any of the information. Thus, we find that the circumstances have changed, and the department may not continue to rely on Open Records Letter No. 2009-18354 as a previous determination in this instance. *See* ORD 673. Accordingly, we will address your arguments against the disclosure of the information at issue in report number 281085-W as well as the remaining requested information.

Section 552.108(a) 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime.” Gov’t Code § 552.108(a)(1). Generally, 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). You have marked information the department seeks to withhold under section 552.108. You state that the marked information in report numbers 103388-W, 15914-W, 19988-W, and 380378-W relates to pending criminal cases. Based upon this representation, we conclude that the release of the marked information in those reports 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). Accordingly, we conclude that the department may generally withhold the information you have marked in report numbers 103388-W, 15914-W, 19988-W, and 380378-W under section 552.108(a)(1).

You do not state that report number 163547-W relates to an ongoing criminal investigation or prosecution, nor have you explained how its release would interfere in some way with the detection, investigation, or prosecution of crime. Therefore, you have not met your burden under section 552.108(a)(1) regarding this report. Because you have failed to demonstrate the applicability of section 552.108(a)(1) of the Government Code, the department may not withhold report number 163547-W on such basis.

We note that 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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note you have marked the entire narrative portion of report numbers 103388-W, 15914-W, 19988-W, and 380378-W as information you seek to withhold under section 552.108. However, the remaining portions of the reports do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Accordingly, with the exception of basic information, which

must include a detailed description of the offense, the department may withhold the information you have marked in report numbers 103388-W, 15914-W, 19988-W, and 380378-W pursuant to section 552.108(a)(1) of the Government Code.

We note that some of the remaining submitted information is excepted from disclosure by section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator's license, driver's license, or personal identification document issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (3). We have marked the information the department must withhold under section 552.130.²

In summary, with the exception of basic information, which must include a detailed description of the offense, the department may withhold the information you have marked in report numbers 103388-W, 15914-W, 19988-W, and 380378-W pursuant to section 552.108(a)(1) of the Government Code. We have marked the information the department must withhold under section 552.130. The remaining submitted information must be released to the requestor.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

Ref: ID# 374177

~~Enc: Submitted documents~~

c: Requestor
(w/o enclosures)