



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 29, 2014

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

OR2014-01726

Dear Mr. 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# 512125 (ORR# 2013-12640).

The Dallas Police Department (the "department") received a request for all records related to a specified incident involving a named individual. You claim some of the submitted information is excepted from disclosure under sections 552.108, 552.117, and 552.130 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Initially, you state some 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. 2013-17578 (2013). In that ruling, we determined (1) with the exception of the basic information, the department may withhold certain information under section 552.108(a)(1) of the Government Code; and (2) the department must withhold certain information under sections 552.117(a)(1) and 552.136 of the Government Code and release the remaining information. 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 requested information is identical

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<sup>1</sup>We understand you to raise section 552.130 based on your markings.

to the information previously requested and ruled upon by this office, we conclude the department must rely on Open Records Letter No. 2013-17578 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). We will address your arguments against disclosure for the submitted information, which has not been previously ruled on by this office.

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 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 internal affairs investigations and criminal offense reports. You explain the offense reports pertain to pending investigations or prosecutions of crime. You also explain the submitted internal affairs investigations relate to pending criminal investigations or prosecutions. You argue release of the information you have marked “could hinder the criminal investigation[s] and/or prosecution[s] 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, section 552.108(a)(1) is applicable to the information at issue.

However, we note, and you acknowledge, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *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 basic information includes, among other items, a detailed description of the offense. *See* ORD 127 at 3-4. Thus, with the exception of the basic information 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. Gov't Code § 552.117(a)(2). Section 552.117(a)(2) applies to peace officers as defined by article 2.12 of the Code of Criminal Procedure. Accordingly, the department must withhold the information we have marked under section 552.117(a)(2) of the Government Code.<sup>2</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 this information be kept confidential under section 552.024 of the Government Code. *See id.* § 552.117(a). Whether a particular piece of information is protected by section 552.117(a)(1) must be determined at the time the request for it is made. *See* Open Records Decision No. 530 at 5 (1989). Therefore, the department may only withhold information under section 552.117(a)(1) on behalf of current or former officials or employees who made a request for confidentiality under section 552.024 prior to the date on which the request for this information was made. Upon review, we find none of the remaining information is subject to section 552.117(a)(1) of the Government Code. Accordingly, the department may not withhold any of the remaining information on that basis.

We note some of the remaining information may be subject to section 552.1175 of the Government Code.<sup>3</sup> Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov't Code § 552.1175. Section 552.1175 applies, in part, to "peace officers as defined

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<sup>2</sup>We note a governmental body may withhold a peace officer's home address and telephone number, personal cellular telephone and pager numbers, social security number, and family member information under section 552.117(a)(2) without requesting a decision from this office. *See* Open Records Decision No. 670 (2001); Gov't Code § 552.147(b).

<sup>3</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

by Article 2.12, Code of Criminal Procedure[.]” Gov’t Code § 552.1175(a)(5). Some of the remaining information, which we have marked, relates to an officer of the department but the information is not held by the department in an employment capacity. Accordingly, if the officer at issue elects to restrict access to his marked information in accordance with section 552.1175(b) of the Government Code, the department must withhold the marked information under section 552.1175 of the Government Code. Conversely, if the officer at issue does not elect to restrict access to his information in accordance with section 552.1175(b), the marked information may not be withheld under section 552.1175.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130(a). Accordingly, the department must withhold the motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.<sup>4</sup>

In summary, to the extent the requested information is identical to the information previously requested and ruled upon by this office, the department must rely on Open Records Letter No. 2013-17578 as a previous determination and withhold or release the identical information in accordance with that ruling. With the exception of basic information, which must be released, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold (1) the information we have marked under section 552.117(a)(2) of the Government Code; (2) the information we have marked under section 552.1175 of the Government Code, if the individual at issue elects to restrict access to his information in accordance with subsection 552.1175(b) of the Government Code; and (3) the information you have marked, and the additional information we have marked, under section 552.130 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.

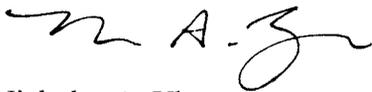
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at <http://www.texasattorneygeneral.gov/open/>

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<sup>4</sup>We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov’t Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

[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,

A handwritten signature in black ink, appearing to read "N. A. Ybarra". The signature is fluid and cursive, with the first name "N." and last name "Ybarra" clearly distinguishable.

Nicholas A. Ybarra  
Assistant Attorney General  
Open Records Division

NAY/ac

Ref: ID# 512125

Enc. Submitted documents

c: Requestor  
(w/o enclosures)