



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 23, 2014

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

OR2014-08927

Dear Ms. McClellan:

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# 525092 (DPD Request Number: 2014-02529).

The Dallas Police Department (the "department") received a request for all internal affairs records pertaining to a specified officer. You claim portions of the requested information are excepted from disclosure under sections 552.108 and 552.136 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>2</sup>

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,

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<sup>1</sup>Although you do not raise section 552.136 of the Government Code in your brief, we understand you to raise it based on your markings.

<sup>2</sup>We 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.

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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). 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 pertains to a pending criminal investigation that has been referred to the grand jury. You further state the Dallas District Attorney’s Office has asked for the information at issue to be withheld during the pending prosecution. Based upon your representation, we conclude release of the information you have marked will 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). Accordingly, we find the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

We understand you to claim the network user name you have marked is excepted from disclosure under section 552.136 of the Government Code. However, we note this information is subject to section 552.139 of the Government Code.<sup>3</sup> Section 552.139 of the Government Code provides, in part:

(a) Information is excepted from [required public disclosure] if it is information that relates to computer network security, to restricted information under Section 2059.055 [of the Government Code], or to the design, operation, or defense of a computer network.

Gov’t Code § 552.139(a). Section 2059.055 of the Government Code provides in pertinent part:

(b) Network security information is confidential under this section if the information is:

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<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.

(1) related to passwords, personal identification numbers, access codes, encryption, or other components of the security system of a state agency[.]

*Id.* § 2059.055(b)(1). We understand the user name you have marked can be used to access the department's internal computer network. Upon review, we find this user name relates to computer network security. Accordingly, the department must withhold the user name you have marked under section 552.139 of the Government Code.

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the user name you have marked under section 552.139 of the Government Code. The department must release the remaining information.

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,



Abigail T. Adams  
Assistant Attorney General  
Open Records Division

ATA/ac

Ref: ID# 525092

Enc. Submitted documents

c: Requestor  
(w/o enclosures)