



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

April 26, 2019

Ms. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Section  
City of Dallas  
1400 South Lamar Street, 6th Floor, 6W  
Dallas, Texas 75215

OR2019-11179

Dear Ms. 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# 759081 (ORR# D001761-011719).

The Dallas Police Department (the "department") received a request for all completed officer-involved shooting fatality investigations that resulted in a specified finding during a specified time period. You claim portions of the submitted information are excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note some of the submitted information may have been the subject of previous requests for rulings, as a result of which this office issued Open Records Letter Nos. 2016-22655 (2016); 2016-26617 (2016); 2016-27874 (2016); 2017-23622 (2017); 2018-09245 (2018); and 2019-06129 (2019). We have no indication the law, facts, or circumstances upon which the prior rulings were based have changed. Accordingly, to the extent the submitted information is identical to the information previously requested and

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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 that those records contain substantially different types of information than that submitted to this office.

ruled upon, the department must continue to rely on Open Records Letter Nos. 2016-22655; 2016-26617; 2016-27874; 2017-23622; 2018-09245; and 2019-06129 as previous determinations, and withhold or release the previously ruled upon information in accordance with them. *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 a prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent the submitted information is not encompassed by the prior rulings, we will consider your arguments against disclosure.

Next, we must address the department's obligations under section 552.301 of the Government Code, which prescribes the procedures a governmental body must follow in asking this office to decide whether requested information is excepted from public disclosure. *See* Gov't Code § 552.301. 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. *See id.* § 552.301(b). In this instance, you state you received the request for information on January 17, 2019. You state the department was closed in observance of Martin Luther King, Jr. Day on January 21, 2019. We note this office does not count the date the request was received or holidays for purposes of calculating a governmental body's deadlines under the Act. Thus, the department was required to provide the information required by section 552.301(b) by February 1, 2019. However, the envelope in which you provided the information required by section 552.301(b) was postmarked February 2, 2018. *See id.* § 552.308(a)(1) (describing rules for calculating submission dates of documents sent via first class United States mail, common or contract carrier, or interagency mail). Accordingly, we conclude the department failed to comply with the procedural requirements mandated by section 552.301 of the Government Code.

Pursuant to section 552.302 of the Government Code, a governmental body's failure to comply with the procedural requirements of section 552.301 results in the legal presumption that the requested information is public and must be released unless there is a compelling reason to withhold the information from disclosure. *See id.* § 552.302; *Simmons v. Kuzmich*, 166 S.W.3d 342 (Tex. App.—Fort Worth 2005, no pet.); *Hancock v. State Bd. of Ins.*, 797 S.W.2d 379, 381-82 (Tex. App.—Austin 1990, no writ). You claim sections 552.103 and 552.108 of the Government Code for the submitted information. However, we find you have failed to establish a compelling reason to address your claimed exceptions. Accordingly, no portion of the remaining information may be withheld under section 552.103 or section 552.108 of the Government Code.

In summary, to the extent the submitted information is identical to the information previously requested and ruled upon, the department must continue to rely on Open Records Letter Nos. 2016-22655; 2016-26617; 2016-27874; 2017-23622; 2018-09245; and 2019-06129 as previous determinations, and withhold or release the previously ruled upon information in accordance with them. 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,

A handwritten signature in black ink, appearing to read "Tim Neal".

Tim Neal  
Assistant Attorney General  
Open Records Division

TN/gw

Ref: ID# 759081

Enc. Submitted documents

c: Requestor  
(w/o enclosures)