



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 10, 2010

Mr. John C. West
General Counsel
Office of the Inspector General
Texas Department of Criminal Justice
4616 Howard Lane, Suite 250
Austin, Texas 78728

OR2010-03475

Dear Mr. West:

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# 372421 (OIG ORR File #OR-2009-00348).

The Texas Department of Criminal Justice's (the "department") Office of the Inspector General (the "OIG") received a request for information pertaining to the death of a named individual. You state you will release some requested information from the responsive file with information redacted pursuant to the previous determination issued to the department in Open Records Letter No. 2005-1067 (2005)¹ and section 552.147 of the Government Code. You also state the OIG plans to release the basic information in Exhibit B to the requestor. *See* Gov't Code § 552.108(c) (basic information about an arrested person, and arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim the remaining information is excepted from disclosure under

¹Open Records Letter No. 2005-1067 authorizes the department to generally withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity of requesting a decision under the Act. *See* Open Records Decision No. 673 (2001) (listing elements of first type of previous determination under section 552.301(a)).

sections 552.101, 552.108, 552.130, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(1) 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception 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 release of the submitted information “would seriously undermine the [department’s] continuing criminal investigation and prosecution.” Based on this representation and our review, we determine the release of Exhibit C 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, the OIG may withhold Exhibit C pursuant to section 552.108(a)(1) of the Government Code.²

We note the information you are releasing in Exhibit B contains information that is within the scope of section 552.117 of the Government Code. Section 552.117(a)(3) excepts from public disclosure the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former department employees, regardless of whether the employee complies with section 552.1175 of the Government Code. Gov’t Code § 552.117(a)(3). We note the information at issue pertains to a deceased department employee. However, because the protection afforded by section 552.117 includes “current or former” officials or employees, the protection does not lapse at death. Accordingly, the OIG must withhold the information we have marked in Exhibit B under section 552.117(a)(3) of the Government Code.

In summary, the OIG may withhold Exhibit C pursuant to section 552.108(a)(1) of the Government Code. The OIG must withhold the information we have marked in Exhibit B under section 552.117(a)(3) 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.oag.state.tx.us/open/index_orl.php,

²As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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,

A handwritten signature in black ink, appearing to read "James McGuire". The signature is fluid and cursive, with a horizontal line extending to the right.

James McGuire
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 372421

Enc. Submitted documents

c: Requestor
(w/o enclosures)