



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

March 11, 2010

Mr. John C. West
General Counsel
Office of Inspector General
Texas Department of Criminal Justice
P.O. Box 13084
Austin, Texas 78711-3084

OR2010-03541

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# 372762 (OIG ORR File # OR-2009-00349).

The Texas Department of Criminal Justice's Office of the Inspector General (the "department") received a request for "a copy of an open case that [the requestor] may have been involved in." You state the department has released certain information to the requestor. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have redacted information from the documents that you released pursuant to section 552.147 of the Government Code and a previous determination issued by this office. *See* Open Records Letter No. 2005-01067 (2005) (authorizing the department to withhold information relating to its current or former employees under section 552.117(a)(3) without necessity of requesting attorney general decision); Gov't Code § 552.147(b) (authorizing governmental body to redact living person's social security number from public release under section 552.147 without necessity of requesting attorney general decision under Act). We note that the information you redacted includes the requestor's social security number. In this instance, the requestor has a right of access to her social security number and it may not be withheld from her either under section 552.147 or section 552.117(a)(3) of the Government Code. *See id.* § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves).

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). You assert the submitted information relates to a pending investigation. We note that section 552.108 is generally not applicable to records of an internal 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, 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). You explain, however, that release of the information at issue “would seriously undermine [the department’s] continuing criminal investigation.” Based upon your representation, we conclude the release of the information at issue 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).

However, 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 185-86. Thus, with the exception of basic information, which you state will be released, you may withhold the submitted information pursuant to section 552.108(a)(1) of the Government Code.¹

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,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/cc

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information, except to note that the information that is subject to disclosure under section 552.029(8) corresponds to basic front-page information under section 552.108(c).

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Enc. Submitted documents

c: Requestor
(w/o enclosures)