



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

May 20, 2010

Ms. Neera Chatterjee
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2010-07284

Dear Ms. Chatterjee:

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# 379971 (OGC # 129264).

The University of Texas Southwestern Medical Center at Dallas (the "university") received twenty-three requests from different requestors for information pertaining to a specified incident.¹ You state that you have released a portion of the requested information. You claim some of the submitted information is not subject to the Act. In addition, you claim the remaining information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 of the Government Code. We have considered the submitted arguments and reviewed the submitted information.

¹We note that the university asked for and received clarification regarding one of the requests. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

Initially, we address your argument that portions of the submitted information are not subject to the Act. You contend that pursuant to section 181.006 of the Health and Safety Code, the information you have marked is not subject to the Act. Section 181.006 states “[f]or a covered entity that is a governmental unit, an individual’s protected health information ... is not public information and is not subject to disclosure under [the Act].” Health & Safety Code § 181.006. We will assume, without deciding, the university is a covered entity. Subsection 181.006(2) does not remove protected health information from the Act’s application, but rather states this information is “not public information and is not subject to disclosure under [the Act].” We interpret this to mean a covered entity’s protected health information is subject to the Act’s application. Furthermore, this statute, when demonstrated to be applicable, makes confidential the information it covers. Thus, we will consider your argument for this information, as well as for the remaining information.

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 the release of the requested information would interfere with law enforcement. *See* Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and provide documentation supporting, that the submitted information pertains to a pending criminal investigation by the university’s police department, and the release of the information you have marked would interfere with that investigation. Based on these representations and our review, we conclude that the release of the information you have marked 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., 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, the university may withhold the information you have marked under section 552.108(a)(1).² The remaining submitted 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, 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

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

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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eeg

Ref: ID# 379971

Enc. Submitted documents

Requestor (23)
(w/o enclosures)