



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 26, 2011

Mr. Duncan Fox  
Deputy General Counsel  
Texas Department of Public Safety  
P.O. Box 4087  
Austin, Texas 78773-0001

OR2011-10742

Dear Mr. Fox:

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# 425566 (DPS OR# 11-1148, 11-1149, and 11-1208).

The Texas Department of Public Safety (the "department") received three requests for information regarding the incidents referenced by the department's director in his testimony before a subcommittee of the United States House of Representatives on May 11, 2011. You state the department has released some of the requested information. You claim that the remaining requested information is excepted from disclosure under sections 552.101 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>

You contend that the information at issue is excepted under section 552.101 of the Government Code in conjunction with section 418.180 of the Government Code. Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses information protected by other statutes, such as section 418.180. As part of the Texas Homeland Security Act, sections 418.176

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<sup>1</sup>This letter ruling assumes that the submitted representative sample of information is truly representative of the requested information as a whole. This ruling does not reach, and therefore does not authorize, the withholding of any other requested information to the extent that the other information is substantially different than that submitted to this office. See Gov't Code §§ 552.301(e)(1)(D), .302; Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

through 418.182 were added to chapter 418 of the Government Code. These provisions make certain information related to terrorism confidential. Section 418.180 provides:

Information, other than financial information, in the possession of a governmental entity is confidential if the information:

- (1) is part of a report to an agency of the United States;
- (2) relates to an act of terrorism or related criminal activity; and
- (3) is specifically required to be kept confidential:
  - (A) under Section 552.101 because of a federal statute or regulation;
  - (B) to participate in a state-federal information sharing agreement; or
  - (C) to obtain federal funding.

*Id.* § 418.180. As with any exception to disclosure, a governmental body asserting one of the confidentiality provisions of the Texas Homeland Security Act must adequately explain how the responsive records fall within the scope of the claimed provision. *See id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies); Open Records Decision No. 649 at 3 (1996) (language of confidentiality provision controls scope of its protection). You do not provide any arguments explaining how section 418.180 is applicable to the information at issue. *See Gov't Code* § 418.180. Consequently, we find that you have failed to adequately explain how any of the information at issue falls within the scope of section 418.180 of the Government Code. We therefore determine that the department may not withhold any of the information at issue under section 552.101 of the Government Code in conjunction with section 418.180 of the Government Code.

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[.]” *Id.* § 552.108(a)(1). Generally, a governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue involves records of linked criminal cases that are related to pending investigations. Based upon your representations and our review, we conclude that 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) (court delineates law enforcement interests that are

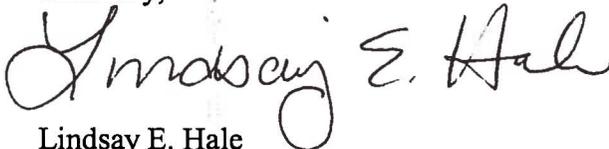
present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, section 552.108(a)(1) is applicable to this information.

We note, 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 front-page information refers to the information held to be public in *Houston Chronicle*, and includes, among other items, a detailed description of the offense. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic front page offense and arrest information, which must be released, the department may withhold the information at issue under section 552.108(a)(1) of the Government Code.<sup>2</sup>

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](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,



Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/em

Ref: ID# 425566

Enc. Submitted documents

c: Requestors  
(w/o enclosures)

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<sup>2</sup>We note the basic information includes an arrestee's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b).