



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 3, 2012

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

OR2012-04812

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# 449367 (OIG ORR# 2012-00007).

The Texas Department of Criminal Justice (the "department") received a request for information pertaining to the death of a named inmate. You state the department has released some responsive information to the requestor. You also state you will redact certain addresses, telephone numbers, social security numbers, and personal family information pursuant to sections 552.117 and 552.147(b) of the Government Code and the previous determination issued to the department in Open Records Letter No. 2005-01067 (2005).¹ You claim the remaining submitted information is excepted from disclosure under sections 552.101, 552.102, 552.108, 552.130, and 552.134 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

¹We note Open Records Letter No. 2005-01067 serves as a previous determination that the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, are excepted from disclosure under section 552.117(a)(3) of the Government Code. Further, section 552.147(b) of the Government Code authorizes a governmental body to redact the social security number of a living person from public release without the necessity of requesting a decision from this office under the Act.

Initially, we note some of the requested information was previously the subject of a request for information, in response to which this office issued Open Records Letter No. 2011-12212 (2011). In the previous ruling, we concluded (1) the inmate's medical records must be withheld under section 552.101 of the Government Code in conjunction with the MPA, unless the department receives written consent for release of those records that complies with sections 159.004 and 159.005 of the MPA; and (2) except for basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code. As you do not indicate there has been any change in the law, facts, and circumstances on which the previous ruling is based, we conclude the department must withhold or release the information we previously ruled upon in accordance with Open Records Letter No. 2011-12212. *See* Open Records Decision No. 673 at 6-7 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). However, to the extent the information responsive to the current request is not encompassed by the previous decision, we will address your arguments 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(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the remaining information pertains to a criminal investigation that is currently open and under investigation. Based on 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) (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). Thus, section 552.108(a)(1) is applicable to the remaining information.

However, we note, and you acknowledge, 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 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold the information not previously ruled upon under section 552.108(a)(1) of the Government Code.²

²As our ruling under section 552.108 of the Government Code is dispositive, we need not address your remaining arguments against disclosure for the submitted information, except to note the basic information at issue is not excepted from disclosure under section 552.134. *See* Gov't Code § 552.029(8) (basic information about the death of an inmate in custody is not excepted under section 552.134).

In summary, the department must withhold or release the information we previously ruled upon in accordance with Open Records Letter No. 2011-12212. With the exception of the basic information, the department may withhold the information not previously ruled upon under section 552.108(a)(1) of the Government Code.

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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 449367

Enc. Submitted documents

c: Requestor
(w/o enclosures)