



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 10, 2012

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

OR2012-05136

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# 450385 (OGC #141780).

The University of Texas at Austin (the "university") received a request for reports and draft reports concerning incidents involving rDNA and biohazardous materials in specified laboratories during a specified time period. You claim the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ You also state you have notified the Federal Bureau of Investigation (the "FBI") and the Travis County Sheriff's Office (the "sheriff's office") of the request. We have received comments from the sheriff's office and from the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released). We have

¹Although you also initially raised sections 552.101 and 552.151 of the Government Code, you informed us in a letter dated March 20, 2012 that the university withdraws its arguments under those sections.

considered the submitted arguments and reviewed the submitted representative sample of information.²

We first note the sheriff's office seeks to withhold information that the university has not submitted for our review. This ruling does not address information beyond what the university has submitted to us for review. *See id.* § 552.301(e)(1)(D) (governmental body requesting decision from attorney general must submit copy of specific information requested). Accordingly, this ruling is limited to the information the university has submitted as responsive to the request for 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[.]” *Id.* § 552.108(a)(1). A governmental body must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You provide a letter from the FBI stating that a portion of the requested information pertains to an ongoing criminal investigation being conducted by the FBI, and that release of such information would interfere with the pending investigation. Based on this representation and our review of the information, we conclude release of the information you have indicated in report numbers 1114214, 1200172, and 1149 would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref'd per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, with the exception of the information you have marked for release, the university may withhold report numbers 1114214, 1200172, and 1211 under section 552.108(a)(1). As you raise no additional exceptions to disclosure for the remaining information, the university must release the information you have marked for release in report numbers 1114214, 1200172, and 1211, and report numbers 1144 and 1149 in their entirety.³

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.

²We assume the “representative sample” of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent those records contain substantially different types of information than that submitted to this office.

³Because our ruling is dispositive, we do not address your remaining argument against disclosure.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/som

Ref: ID# 450385

Enc. Submitted documents

- c: Requestor
(w/o enclosures)

- c: Mr. Patrick J. Loll
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Federal Bureau of Investigation - Austin Office
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- c: Sheriff Greg Hamilton
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