



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 29, 2013

Mr. Ronny H. Wall
Associate General Counsel
Texas Tech University System
P.O. Box 42021
Lubbock, Texas 79409-2021

OR2013-18810

Dear Mr. Wall:

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# 503842.

The Texas Tech Police Department (the "department") received two requests for the entire investigation file related to a specified incident. You claim the submitted information is excepted from disclosure under sections 552.103, 552.107, 552.108, 552.117, 552.130, 552.137, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted representative sample of information.²

Initially, you assert the instant requests for information were not valid requests for purposes of the Act. You state the instant requests were submitted by e-mail and facsimile to the department. Section 552.301(c) of the Government Code provides that "a written request includes a request made in writing that is sent to the officer for public information, or the person designated by that officer, by electronic mail or facsimile transmission." Gov't Code § 552.301(c). You state the department is neither Texas Tech University's (the "university") public information officer nor a person authorized by the public information officer to

¹Although you do not raise section 552.147 of the Government Code in your brief, we understand you to raise this section based on your markings in the documents.

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.

receive a request submitted by e-mail or facsimile. Nevertheless, you have requested a decision on the submitted information and otherwise treated the instant requests as having been properly submitted. Accordingly, we will determine whether the information at issue is excepted from disclosure.³

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 submitted information pertains to an active criminal 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 submitted information.

However, we note 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). We note basic information does not include motor vehicle record information encompassed by section 552.130 of the Government Code or the social security number of individuals other than an arrestee. *See* ORD 127 at 3-4. Thus, with the exception of the basic information, which must be released, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code.⁴

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.

³In the future, the requestors should submit any requests via e-mail or facsimile to the university’s chief administrative officer or his designee, the Office of General Counsel, as required by section 552.301(c) of the Act.

⁴As our ruling is dispositive, we need not address your remaining arguments against disclosure of the submitted information except to note section 552.103 of the Government Code does not generally except from disclosure the same basic information that must be released under section 552.108(c). *See* Open Records Decision No. 597 (1991).

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in black ink, appearing to read "m A. Ybarra". The signature is fluid and cursive, with the first letter of the first name being a large, stylized 'm'.

Nicholas A. Ybarra
Assistant Attorney General
Open Records Division

NAY/ac

Ref: ID# 503842

Enc. Submitted documents

c: Requestor
(w/o enclosures)