



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 26 2009

Ms. Candice M. De La Garza  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2009-03912

Dear Ms. De La Garza:

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# 339512.

The City of Houston (the "city") received a request for information relating to licenses, registrations, and certifications of a named city employee. You state that you are providing the requestor with a portion of the requested information. You claim that the remaining information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Initially, we note that some of the responsive information has been previously ruled upon by this office in Open Records Letter No. 2009-03472 (2009). In that ruling we concluded that, with the exception of basic information, the city may withhold information pertaining to a pending criminal investigation of the named employee who is the subject of this request pursuant to section 552.108. As we have no indication that the law, facts, and circumstances surrounding this prior ruling have changed, you may continue to rely on Open Records Letter No. 2009-03472 as a previous determination and withhold the responsive information in this request that was previously ruled on in accordance with this prior ruling. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in a prior attorney general

ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). However, to the extent that the information requested in this instance was not the subject of the ruling in Open Records Letter No. 2009-03472, we will address your argument.

Section 552.108(a)(1) 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the submitted information pertains to a pending criminal investigation being conducted by the city’s Office of the Inspector General (the “OIG”). You inform us that the OIG was established by Executive Order of the Mayor in February 1988 as a central authority to investigate allegations of city employee misconduct, both criminal and administrative. Based on your representations and our review, we conclude that section 552.108(a)(1) is generally applicable to the submitted information. *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. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). However, we note that the submitted information contains a document that is available on the internet. This document, which we have marked, must be released to the requestor as it already exists in the public domain by virtue of its publication.

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. The city must release basic information, including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information and the document we have marked for release, the city may withhold the rest of the information at issue 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](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 at (512) 475-2497.

Sincerely,

A handwritten signature in cursive script, appearing to read "Pam Wissemann".

Pamela Wissemann  
Assistant Attorney General  
Open Records Division

PFW/rl

Ref: ID# 339512

Enc. Submitted documents

c: Requestor  
(w/o enclosures)