



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 4, 2009

Ms. Cara Leahy White
Taylor, Olson, Adkins, Sralla, Elam, LLP
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2009-05906

Dear Ms. White:

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# 341807.

The Haltom City Police Department (the "department") received two requests for reports, video, and related information regarding an incident at the city detention facility. You claim that the submitted information is excepted from disclosure under sections 552.103, 552.108, and 552.1175 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, a governmental body claiming section 552.108 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). The information you seek to withhold under section 552.108 includes an internal affairs investigation. Section 552.108 is generally not applicable to information relating to an administrative investigation that did not result in a criminal investigation or prosecution. *See Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. Civ. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, you explain,

prosecution); *see also* Open Records Decision No. 350 at 3-4 (1982). However, you explain, and provide documentation from the Tarrant County Criminal District Attorney showing, that the submitted information relates to a pending criminal investigation and prosecution. Based upon this representation and our review, we conclude that the release of the information 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), *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).

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 department 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 front page information, the department may withhold the submitted information pursuant to section 552.108(a)(1).¹

You contend that a portion of the basic information includes the personal information of a peace officer subject to section 552.1175 of the Government Code. This section provides in part:

(a) This section applies only to:

(1) peace officers as defined by Article 2.12, Code of Criminal Procedure;

(b) Information that relates to the home address, home telephone number, or social security number of an individual to whom this section applies, or that reveals whether the individual has family members is confidential and may not be disclosed to the public under this chapter if the individual to whom the information relates:

(1) chooses to restrict public access to the information; and

¹As our ruling is dispositive, we need not address your remaining argument against disclosure, except to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. *See* Open Records Decision No. 597 (1991).

(2) notifies the governmental body of the individual's choice on a form provided by the governmental body, accompanied by evidence of the individual's status.

Gov't Code § 552.1175(a), (b). You state that the individual in question is a currently licensed peace officer employed by the City of Southlake. You have submitted a copy of the election form on which the officer has elected with the City of Haltom to withhold his home address, telephone number, social security number, and information that reveals whether he has family members. Thus, we agree the department must withhold the personal information you have marked under section 552.1175.

In summary, with the exception of basic information, the department may withhold the submitted information pursuant to section 552.108 of the Government Code. The department must withhold the marked personal information under section 552.1175 in the basic information. The remaining basic information must be released.

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 at (512) 475-2497.

Sincerely,



Pamela Wissemann
Assistant Attorney General
Open Records Division

PFW/jb

Ref: ID# 341807

Enc. Submitted documents

c: Requestor
(w/o enclosures)