



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 5, 2009

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

OR2009-05968

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# 341858.

The Texas Department of Criminal Justice's Office of the Inspector General (the "department") received a request for information pertaining to investigations regarding the requestor. You state you have released some of the requested information with redactions pursuant to the previous determination issued to the department in Open Records Letter No. 2005-01067 (2005) and section 552.147 of the Government Code.¹ You claim that the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.134, and 552.136 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

¹Open Records Letter No. 2005-01067 authorizes the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of its current or former employees under section 552.117(a)(3) of the Government Code, regardless of whether the current or former employee complies with section 552.1175 of the Government Code, without the necessity of requesting a decision under the Act. See Open Records Decision No. 673 (2001) (listing elements of first type of previous determination under Gov't Code § 552.301(a)). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147.

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). You assert submitted case number SC.15.0174.08 relates to a pending administrative investigation. We note that section 552.108 is generally not applicable to records of an internal investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.), *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). You explain, however, that release of the information at issue “would seriously undermine [the department’s] continuing criminal investigation.” Based upon 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), *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, 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 185-86. Thus, with the exception of basic information, which you state will be released, you may withhold case number SC.15.0174.08 pursuant to section 552.108(a)(1) of the Government Code.²

You claim the remaining information is excepted from disclosure under section 552.134 of the Government Code. Section 552.134(a) relates to inmates of the department and provides:

Except as provided by Subsection (b) or by Section 552.029 [of the Government Code], information obtained or maintained by the [department] is excepted from [required public disclosure] if it is information about an inmate who is confined in a facility operated by or under a contract with the department.

Gov’t Code § 552.134(a). The remaining information concerns an investigation related to the alleged mistreatment of an inmate confined in a facility operated by or under contract with the department. Thus, we agree portions of the remaining information are subject to section 552.134. Further, none of the information at issue is subject to release under section 552.029 of the Government Code. Accordingly, the department must withhold the information we have marked pursuant to section 552.134 of the Government Code.³ The remaining information, however, consists of information pertaining only to former department employees. Thus, you have failed to demonstrate how this information is about

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

³As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

an inmate. Accordingly, no portion of the remaining information may be withheld under section 552.134.

You assert that a portion of the remaining information is subject to section 552.136 of the Government Code, which states that “[n]otwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136. Therefore, the department must withhold the bank account number we have marked under section 552.136 of the Government Code.

In summary, with the exception of the basic information, the department may withhold case number SC.15.0174.08 under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked under section 552.134 of the Government Code and section 552.136 of the Government Code. The remaining information must be released to the requestor.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.

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,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/dls

⁴We note that the information being released contains confidential information to which the requestor has a right of access. See Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Therefore, if the department receives another request for this same information from a different requestor, then the department should again seek a decision from this office.

Ref: ID# 341858

Enc. Submitted documents

cc: Requestor
(w/o enclosures)