



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 22, 2009

Ms. Pamela Smith
Assistant General Counsel
Texas Department of Public Safety
P.O. Box 4087
Austin, Texas 78773-0001

OR2009-06986

Dear Ms. Smith:

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# 343891 (DPS Nos. 09-0453 and 09-0454).

The Texas Department of Public Safety ("DPS") received two requests from the same requestor for complete records of all arrests made by DPS personnel under the supervision of two specified DPS officers between September 1, 2008, and March 5, 2009. You state that DPS has released some information, including records related to arrests made pursuant to outstanding warrants and basic information from each responsive case, to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that some of the submitted information was the subject of a previous request, as a result of which this office issued Open Records Letter No. 2009-04049 (2009). In that ruling, we concluded that DPS may withhold the information at issue under section 552.108(a)(1) of the Government Code. You do not indicate that there has been any change in the law, facts, or circumstances on which the previous ruling was based. We

¹Although you do not raise sections 552.101, 552.130, or 552.147 in your brief, we understand you to claim these sections based on your markings in the submitted information. We note that 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.

therefore conclude that DPS may rely on Open Records Letter No. 2009-04049 as a previous determination and continue to withhold the information at issue in that request.² See Open Records Decision No. 673 (2001) (determining that governmental body may rely on previous determination when records or information at issue are precisely same records or information that were previously submitted to this office pursuant to section 552.301(e)(1)(D); governmental body which received request for records or information is same governmental body that previously requested and received ruling from attorney general; prior ruling concluded that precise records or information are or are not excepted from disclosure under Act; and law, facts, and circumstances on which prior ruling was based have not changed since issuance of ruling).

We next address your argument under section 552.108 for the information not subject to the previous determination. 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 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 that the remaining submitted information relates to pending criminal investigations. Based on this representation, we conclude that release of this 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. App.—Houston [14th Dist.] 1975), *writ ref’d n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

However, as you acknowledge, 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 186-187; see also Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state DPS has released, DPS may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.³

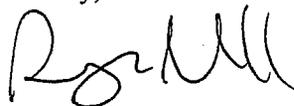
²As we are able to make this determination, we do not address your arguments against disclosure of this portion of the submitted information.

³As this ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that the information you have marked under sections 552.101, 552.130, and 552.147 does not constitute basic information and need not be released in response to this ruling.

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,



Ryan T. Mitchell
Assistant Attorney General
Open Records Division

RTM/cc

Ref: ID# 343891

Enc. Submitted documents

cc: Requestor
(w/o enclosures)