



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 22, 2009

Mr. Scott A. Kelly
Deputy General Counsel
Texas A&M University System
200 Technology Way, Suite 2079
College Station, Texas 77845-3424

OR2009-10176

Dear Mr. Kelly:

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# 354390.

The Texas A&M University (the "university") received a request for a specified police report. You state the university will release basic information to the requestor. You claim that the remaining requested information is excepted from disclosure under sections 552.103, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the submitted information contains the requestor's fingerprints. Chapter 560 of the Government Code provides that a governmental body may not release fingerprint information except in certain limited circumstances. *See* Gov't Code §§ 560.001 (defining "biometric identifier" to include fingerprints), 560.002 (prescribing manner in which biometric identifiers must be maintained and circumstances in which they can be released), 560.003 (biometric identifiers in possession of governmental body exempt from disclosure under the Act). The submitted fingerprint information is confidential under section 560.003; however, the requestor has a special right of access to his fingerprint information. *See id.* § 560.002(1). Therefore, the university must release this information, which we have marked, pursuant to section 560.002 of the Government Code. *See* Open

Records Decision Nos. 613 at 4 (1993) (exceptions in Act cannot impinge on statutory right of access to information), 451 (specific statutory right of access provisions overcome general exceptions to disclosure under the Act).

Section 552.108(a) 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.” 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* Gov’t Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and have provided a letter from the Brazos County Attorney stating, that the submitted information is related to a pending criminal prosecution. Based upon this representation, we conclude that the release of the remaining 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).

We note, and you acknowledge, that 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 177. Thus, with the exception of basic information, which you state will be released, the university may withhold the remaining submitted information under section 552.108(a)(1) of the Government Code.¹

In summary, the marked fingerprints must be released to this requestor pursuant to section 560.002 of the Government Code. With the exception of basic information, the university may withhold the remaining information 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, 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

¹As our ruling is dispositive, we do not address your remaining arguments against disclosure.

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 "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 354390

Enc. Submitted documents

cc: Requestor
(w/o enclosures)