



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 17, 2009

Ms. Neera Chatterjee
The University of Texas System
Office of the General Counsel
201 West Seventh Street
Austin, Texas 78701-2902

OR2009-16316

Dear Ms. Chatterjee:

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# 361750.

The University of Texas Health Science Center at San Antonio (the "university") received a request for any communications by employees of the San Antonio and Harlingen campuses concerning the requestor and any police reports concerning the requestor. You state the university will release some of the requested information. You claim that some of the submitted information is not subject to the Act. You claim that portions of the remaining information are excepted from disclosure under section 552.108 of the Government Code. We have considered your arguments and reviewed the submitted information. We have also considered comments submitted by the requestor.¹ *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, you assert that the IP address in the submitted information is not subject to the Act. In Open Records Decision No. 581 (1990), this office determined that certain computer information, such as source codes, documentation information, and other computer programming, that has no significance other than its use as a tool for the maintenance, manipulation, or protection of public property is not the kind of information made public under section 552.021 of the Government Code. You indicate that the IP address in the

¹The requestor asks this office, among other things, to open a criminal investigation. Conducting such an investigation is beyond the scope of this office's authority in issuing open records rulings. *See* Gov't Code § 552.301(a) (open records division's authority is limited to determining, upon a governmental body's request, whether requested information falls within an exception to disclosure). Thus, this ruling does not address the issues raised by the requestor that are beyond the scope of our authority. However, this office has forwarded copies of the requestor's correspondence to the Criminal Investigations Division.

submitted information has no other significance other than its use as a tool for the maintenance, manipulation, or protection of public information. Based on the reasoning in Open Records Decision No. 581 and our review of the information at issue, we determine that the IP address, which we have marked, does not constitute public information under section 552.002 of the Government Code. Accordingly, this information is not subject to the Act and need not be released.

Next, we must address the requestor's assertion that the university did not comply with section 552.301 of the Government Code. Pursuant to section 552.301(b), a governmental body must ask for a decision from this office and state the exceptions that apply within ten business days of receiving the written request. *See* Gov't Code § 552.301(b). Section 552.301(e) requires the governmental body to submit to the attorney general, not later than the fifteenth business day after the date of the receipt of the request, (1) written comments stating why the governmental body's claimed exceptions apply to the information that it seeks to withhold; (2) a copy of the written request for information; (3) a signed statement of the date on which the governmental body received the request or evidence sufficient to establish that date; and (4) the specific information that the governmental body seeks to withhold or representative samples if the information is voluminous. *See id.* § 552.301(e)(1)(A)-(D).

The university states and provides documentation that the request was received on August 28, 2009. We note that this office does not count the date the request was received or holidays as business days for the purpose of calculating a governmental body's deadlines under the Act. The university informs this office that it was closed for business on September 7, 2009, in observance of Labor Day. Accordingly, the tenth business day after the receipt of the instant request was September 14, 2009, which was the day the university hand-delivered its request for a decision to this office. Additionally, the fifteenth business day after the receipt of the instant request was September 21, 2009, which is the date that the university hand-delivered the information required under section 552.301(e) to this office. Accordingly, we find that the university has complied with the requirements of section 552.301. Thus, we will address the university's argument against disclosure.

You claim that the information you have marked in the remaining information is excepted under section 552.108 of the Government Code. 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). Generally, a governmental body claiming section 552.108(a)(1) 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 inform us that the university's police department maintains the submitted information and it relates to an open and pending criminal investigation. Based upon your representations and our review, we find that

section 552.108(a)(1) is applicable to the information you have marked in the remaining 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.*, 536 S.W.2d 559 (Tex. 1976) (per curiam) (court delineates law enforcement interests that are present in active cases). Accordingly, the university may withhold the information you have marked under section 552.108(a)(1) of the Government Code.²

In summary, the marked IP address is not subject to the Act and need not be released. The university may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The remaining 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, toll free, at (888) 672-6787.

Sincerely,



Laura Ream Lemus
Assistant Attorney General
Open Records Division

LRL/jb

Ref: ID# 361750

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note that you have the discretion to release all or part of the remaining marked information that is not otherwise confidential by law. Gov't Code § 552.007.