



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 13, 2011

Ms. Zeena T. Angadicheril
Office of General Counsel
The University of Texas System
201 West Seventh Street
Austin, Texas 78701-2902

OR2011-00649

Dear Ms. Angadicheril:

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# 406044 (OGC# 134081).

The University of Texas at El Paso (the "university") received a request for three categories of information related to a specified incident. You state you have released information responsive to categories two and three of the request to the requestor. You claim that portions of the submitted information are not subject to the Act. Additionally, you claim that portions of the submitted 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 received and considered comments from the requestor. *See* Gov't Code § 552.304 (providing that interested party may submit comments stating why information should or should not be released).

Initially, you assert that the submitted university Electronic Identification Number ("EID") 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 inform our office that when combined with an individual's password, the EID serves as "the required log on protocol to access the computer mainframe, the [u]niversity's centralized hub that runs all

its high-level electronic functions.” You further indicate the EID is used solely to access the university’s computer mainframe and has no other significance other than its use as a tool for the maintenance, manipulation, or protection of public information. Based on your representations and our review, we determine the EID in the submitted information 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 to the requestor.

You raise section 552.108 of the Government Code for portions of the submitted information. 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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state, and have provided a representation from the chief of the university’s police department, that the information you have marked relates to a pending criminal prosecution. However, the requestor argues that university statements in the media indicate no crime was committed. Whether or not the requested information relates to a pending criminal prosecution is a question of fact. This office cannot resolve factual disputes in the opinion process. *See Open Records Decision Nos. 592 at 2 (1991), 552 at 4 (1990), 435 at 4 (1986)*. Where fact issues are not resolvable as a matter of law, we must rely on the facts alleged to us by the governmental body requesting our decision, or upon those facts that are discernible from the documents submitted for our inspection. *See Open Records Decision No. 552 at 4 (1990)*. Thus, based on the university’s representations, we accept the university’s assertion that the submitted information relates to a pending criminal prosecution. Accordingly, we conclude that the release of information you have marked 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). Thus, the university may withhold the marked information 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 406044

Enc. Submitted documents

c: Requestor
(w/o enclosures)