



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 12, 2014

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

OR2014-20521

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# 543732 (OIG Open Records 2014-00186).

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for information pertaining to the requestor's deceased son. You state you have released some information to the requestor. We understand the department will withhold information under section 552.117 of the Government Code and pursuant to previous determinations issued by this office, including Open Records No. 2005-01067 (2005).¹ You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.102, 552.108, 552.130, 552.134, and 552.147 of the

¹Section 552.024 of the Government Code permits a governmental body to redact information subject to section 552.117 of the Government Code in certain situations without requesting a decision from this office. See Gov't Code § 552.024(c). Open Records Letter No. 2005-01067 serves as a previous determination permitting the department to withhold the present and former home addresses and telephone numbers, social security numbers, and family member information of current or former employees of the department, regardless of whether they comply with section 552.1175 of the Government Code, under section 552.117(a)(3) of the Government Code without requesting a decision from this office.

Government Code.² We have considered the exceptions you claim and reviewed 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(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 state the submitted information pertains to an open and pending criminal investigation by the department. You state there may be evidence of criminal culpability on the part of one or more of the involved individuals, that could, if confirmed, lead to indictments and criminal prosecution of those individuals, and release of the information could compromise the integrity of the investigation efforts. Further, you state release of anything other than basic information at this time could compromise the investigative process. Based on these representations and our review, we conclude release of Exhibit C would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ’g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law enforcement interests that are present in active cases), *writ ref’d n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we agree section 552.108(a)(1) of the Government Code is applicable to Exhibit C.

However, we note, and 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). Accordingly, with the exception of the basic information, the office may withhold Exhibit C under section 552.108(a)(1) of the Government Code.³

Section 552.102(a) of the Government Code excepts from disclosure “information in a personnel file, the disclosure of which would constitute a clearly unwarranted invasion of personal privacy.” Gov’t Code § 552.102(a). The Texas Supreme Court held section 552.102(a) excepts from disclosure the dates of birth of state employees in the payroll database of the Texas Comptroller of Public Accounts. *Tex. Comptroller of Pub. Accounts*

²Although you also raise section 552.1175 for the submitted information, you provide no argument explaining how this exception is applicable to the information at issue. Therefore, we assume you no longer assert this exception. *See* Gov’t Code §§ 552.301, .302.

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

v. Attorney Gen. of Tex., 354 S.W.3d 336 (Tex. 2010). Having carefully reviewed the information at issue, we have marked information that must be withheld under section 552.102(a) of the Government Code.

Section 552.147 of the Government Code provides that “the social security number of a living person is excepted from” required public disclosure under the Act. Gov’t Code § 552.147(a). Therefore, the department may not withhold the deceased individual’s social security number you marked under section 552.147 of the Government Code.

In summary, with the exception of basic information, the department may withhold Exhibit C under section 552.108(a)(1) of the Government Code. The department must withhold the information we marked under section 552.102(a) of the Government Code. The department must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 543732

Enc. Submitted documents

c: Requestor
(w/o enclosures)