



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

March 4, 2015

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

OR2015-04233

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# 555299.

The Office of the Inspector General of the Texas Department of Criminal Justice (the "department") received a request for copies of any and all department investigations conducted on the requestor during a specified period of time. You claim the submitted information is excepted from disclosure under sections 552.102 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

We note the employee shift logs are shift rosters that are excepted from disclosure pursuant to a previous determination issued by this office to the department in Open Records Letter No. 2004-6370 (2004). In that ruling, this office ruled the department may generally withhold shift rosters for its prison units from public disclosure for security reasons under section 552.108(b)(1) of the Government Code. Therefore, the department may withhold the submitted employee shift logs under section 552.108(b)(1) pursuant to the previous determination issued in Open Records Letter No. 2004-6370.<sup>1</sup> See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001) (listing elements of second type of previous determination under Gov't Code § 552.301(a)).

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<sup>1</sup>As our ruling is dispositive, we need not address your arguments against disclosure of this information.

Section 552.108(a) 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: (1) 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 release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), (b)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). We note section 552.108 is generally not applicable to records of an internal administrative investigation that is purely administrative in nature and does not involve the investigation or prosecution of crime. *See City of Fort Worth v. Cornyn*, 86 S.W.3d 320 (Tex. App.—Austin 2002, no pet.); *Morales v. Ellen*, 840 S.W.2d 519, 525-26 (Tex. App.—El Paso 1992, writ denied) (statutory predecessor to section 552.108 not applicable to internal investigation that did not result in criminal investigation or prosecution). 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 integrity of the investigation process. Based on this representation and our review, we conclude release of the submitted information 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 the remaining information.

However, 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, which must be released, the department may withhold the remaining information under section 552.108(a)(1).<sup>2</sup>

In summary, the department may withhold the submitted employee shift logs under section 552.108(b)(1) pursuant to the previous determination issued in Open Records Letter No. 2004-6370. With the exception of the basic information, which must be released, the department may withhold the remaining information under section 552.108(a)(1) of the Government Code.

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<sup>2</sup>As our ruling is dispositive of this information, we need not address your remaining argument against disclosure.

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](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,



Rustam Abedinzadeh  
Assistant Attorney General  
Open Records Division

RA/dls

Ref: ID# 555299

Enc. Submitted documents

c: Requestor  
(w/o enclosures)