



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 24, 2005

Mr. Randy A. Stoneroad  
Police Legal Advisor  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469-9277

OR2005-09618

Dear Mr. Stoneroad:

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# 237861.

The Corpus Christi Police Department (the "department") received a request for information regarding a specific offense report. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. 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 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), 552.301(e)(1)(a); *see Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the requested offense report relates to a pending criminal investigation. Based on this representation, we conclude that the release of the offense report 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).

We note, however that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic

information refers to the information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Basic information includes the identification and description of the complainant. See *Houston Chronicle*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976). However, because the offense report contains information about an alleged sexual assault, certain front page offense report information is excepted from disclosure under section 552.101 of the Government Code.

Section 552.101 excepts from public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. Under section 552.101, information may be withheld on the basis of common law privacy. The doctrine of common law privacy protects information if it is highly intimate or embarrassing such that its release would be highly objectionable to a reasonable person and the public has no legitimate interest in it. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). In Open Records Decision No. 339 (1982), we concluded that a sexual assault victim has a common law privacy interest which prevents disclosure of information that would identify the victim. See also *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). Thus, the department must withhold information identifying the individual who was assaulted pursuant to section 552.101 in conjunction with common law privacy. All other basic information must be released. The department may withhold the remainder of the information at issue based on section 552.108(a)(1). We note that you have the discretion to release all or part of the remaining information that is not otherwise confidential by law. Gov’t Code § 552.007.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the

Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Michael A. Lehmann  
Assistant Attorney General  
Open Records Division

MAL/sdk

Ref: ID# 237861

Enc. Submitted documents

c: Mr. Darius Radzius  
CBS 10 - Action 10 News  
301 Artesian  
Corpus Christi, Texas 78401  
(w/o enclosures)