



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 18, 2006

Ms. Katherine M. Powers  
Assistant City Attorney  
Criminal Law and Police Division  
City of Dallas  
1400 South Lamar Street  
Dallas, Texas 75215

OR2006-07664

Dear Ms. Powers:

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# 254181.

The Dallas Police Department (the "department") received a request for incident reports at a specified address during a specified time period. You claim that some of 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) 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." 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), (b)(1), 552.301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that incident report numbers 0285343-R and 1028446-P relate to pending criminal investigations. Based on this representation, we conclude that the release of this information 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.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d 177. Thus, with the exception of the basic front page offense and arrest information, the department may withhold incident report numbers 0285343-R and 1028446-P from disclosure based on section 552.108(a)(1).

You indicate that some of the basic information in incident report number 1028446-P is excepted from disclosure under section 552.101 of the Government Code in conjunction with the doctrine of common law privacy. Section 552.101 excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common law privacy. Common law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The type of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In this instance, some of the information that would ordinarily be public under section 552.108(c) is protected by common law privacy under section 552.101. *See* Gov't Code § 552.101; *Indus. Found.*, 540 S.W.2d at 668. We have marked the private information in incident report number 1028446-P that must be withheld from the public under section 552.101.

Finally, we note that section 552.130 of the Government Code is applicable to some of the information in incident report number 0182773-R.<sup>1</sup> Section 552.130 excepts from disclosure information that “relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state[, ] a motor vehicle title or registration issued by an agency of this state[, or ] a personal identification document[.]” Gov't Code § 552.130. We have marked the information in incident report number 0182773-R that the department must withhold under section 552.130.

In summary, with the exception of basic information, which must be released, the department may withhold incident report numbers 0285343-R and 1028446-P pursuant to section 552.108(a)(1) of the Government Code. In releasing basic information, the

---

<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

department must withhold the marked information in incident report number 1028446-P that is protected by common law privacy under section 552.101 of the Government Code. The department must withhold the information we have marked in incident report number 0182773-R under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.

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,

A handwritten signature in black ink, appearing to read "Tamara L. Harswick". The signature is fluid and cursive, with a large initial "T" and a long, sweeping underline.

Tamara L. Harswick  
Assistant Attorney General  
Open Records Division

TLH/kl

Ref: ID# 254181

Enc. Submitted documents

c: Mr. Ralph Kirkpatrick  
3225 Turtle Creek Blvd., #1505  
Dallas, Texas 75219  
(w/o enclosures)