



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 16, 2008

Ms. Sylvia McClellan  
Assistant City Attorney  
Criminal Law and Police Section  
1400 South Lamar  
Dallas, Texas 75215

OR2008-08223

Dear Ms. McClellan:

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# 312849.

The Dallas Police Department (the "department") received a request for all offense reports, records of police calls, videos, and photographs regarding a specified property from January 2000 to the present time. You state that a portion of the requested information will be released to the requestor. You claim that the remaining requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note that some of the submitted information, which we have marked, is not responsive to the instant request for information. The request seeks information pertaining to a specified property. Accordingly, any information that does not pertain to the specified property is not responsive to the current request. The department need not release non-responsive information in response to this request, and this ruling will not address that

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

information. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. Civ. App.—San Antonio 1978, writ dismissed).

You state that a portion of the requested information is excepted from disclosure pursuant to section 552.108 of the Government Code. Section 552.108(a) 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). Generally, 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 *id.* §§ 552.108(a)(1), .301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue relates to pending criminal investigations. Based upon this representation, we conclude that the release of this information, which 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. Civ. App.—Houston [14th Dist.] 1975), writ refused n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Thus, we agree that section 552.108(a)(1) is applicable to the information you have marked.

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 186-88. The department must release basic information under section 552.108(c), including a detailed description of the offense, even if the information does not literally appear on the front page of an offense or arrest report. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*).

We note that basic information includes the identity of the complainant and a detailed description of the offense. In this instance, however, report 0763683-T is related to an alleged sexual assault. Therefore, the department must withhold the identity of the complainant under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup> See *Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied); Open Records Decision Nos. 393 (1983), 339 (1982). With the exception of the complainant’s identifying information in report 0763683-T, which you have marked, the department must release basic information in accordance with section 552.108(c). The department may withhold the rest of the information you have marked under section 552.108(a)(1) of the Government Code.

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<sup>2</sup>Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision,” and encompasses common-law privacy. Gov’t Code § 552.101.

You claim that portions of the remaining requested information are excepted from disclosure under section 552.101 in conjunction with 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 addition, this office has found that an individual's criminal history when compiled by a governmental body may be protected under common-law privacy. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). You have marked information that the department seeks to withhold under section 552.101. Accordingly, the department must withhold the information you have marked in addition to the information we have marked in the remaining documents under section 552.101 in conjunction with common-law privacy.

You also raise section 552.101 in conjunction with section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 911 districts established in accordance with chapter 772. *See Open Records Decision No. 649 (1996)*. These sections make the originating telephone numbers and addresses of 911 callers furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You state that the department is part of an emergency communication district established under section 772.318. You also state that the telephone numbers that you have marked are related to 911 calls and were obtained from a 911 service provider. Based on your representations, we conclude that the department must withhold the marked telephone numbers under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.130 of the Government Code requires the department to withhold "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or] a motor vehicle title or registration issued by an agency of this state; or a personal identification document issued by an agency of this state or a local agency authorized to issue an identification document." Gov't Code § 552.130. Therefore, the department must withhold the information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code.

Section 552.147 of the Government Code provides that “[t]he social security number of a living person is excepted from” required public disclosure under the Act.<sup>3</sup> Gov’t Code § 552.147(a). Accordingly, the department may withhold the marked social security numbers under section 552.147 of the Government Code.

In summary, with the exception of basic information, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. However, the department must withhold the complainant’s identifying information in report 0763683-T, which you have marked, under section 552.101 in conjunction with common-law privacy. The department must also withhold the additional marked information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the marked telephone numbers under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. The department must withhold the Texas motor vehicle record information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code. The department may withhold the marked social security numbers under section 552.147 of the Government Code. The remaining information must be released.

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 file suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such a challenge, 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

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<sup>3</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person’s social security number from public release without the necessity of requesting a decision from this office under the Act.

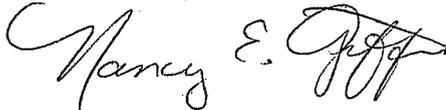
requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can challenge 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,



Nancy E. Griffiths  
Assistant Attorney General  
Open Records Division

NEG/mcf

Ref: ID# 312849

Enc. Submitted documents

c: Ms. Linda Schneider  
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(w/o enclosures)