



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 18, 2008

Ms. Maria Miller  
Legal Assistant  
Dallas County Community College District  
701 Elm Street  
Dallas, Texas 75202-3299

OR2008-15826

Dear Ms. Miller:

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# 328291.

The Dallas County Community College District (the "district") received two requests for a specified police report created by the district's police department. You claim that portions of the submitted report are 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)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have highlighted information you assert is subject to section 552.108(a)(1). You state that this information relates to an open criminal investigation being conducted by the district's police department. Based on your representations and our review of the information at issue, we conclude that the release of the highlighted 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. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

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; ORD 127. Among other things, you have highlighted identifying information of the complainant to be withheld under section 552.108(a)(1). Pursuant to section 552.108(c), this identifying information may not be withheld under section 552.108(a)(1). However, because the submitted report pertains to an alleged sex-related offense, we must determine whether this information is protected by section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup>

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). In Open Records Decision No. 393 (1983), this office concluded that information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. Open Records Decision No. 393 at 2 (1983); see Open Records Decision No. 339 (1982); 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). The complainant in the submitted report is an alleged victim of a sex-related offense. Thus, we have marked the identifying information of the complainant that must be withheld under section 552.101 in conjunction with common-law privacy.<sup>2</sup>

We note that basic information also includes an arrestee's social security number. See ORD 127. Although the district may not withhold this information under 552.108(a)(1), section 552.147 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. Thus, the district may withhold the arrestee's social security number under section 552.147 of the Government Code.

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<sup>1</sup>Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses common-law privacy.

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

In summary, the district must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The district may withhold the arrestee's social security number under section 552.147 of the Government Code. The district may withhold the rest of the highlighted information under section 552.108(a)(1) of the Government Code. The remaining 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 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). If the governmental body does not file suit over 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 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,

A handwritten signature in black ink, appearing to read "Reg Hargrove", with a long horizontal flourish extending to the right.

Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 328291

Enc. Submitted documents

c: Requestor (2)  
(w/o enclosures)