



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 20, 2009

Mr. B. Chase Griffith
Brown & Hofmeister, LLP
Attorney for City of McKinney
City of McKinney
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2009-11709

Dear Mr. Griffith:

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# 352850.

The City of McKinney (the "city"), which you represent, received a request for all information pertaining to any incidents that occurred at a specified address over a specified time period. 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.

The city asserts that the submitted information is excepted under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that the submitted cases and incidents regarding the requested reports have been closed and ended in a result other than conviction or deferred adjudication. Based on your representations, we agree that section 552.108(a)(2) is generally applicable to this information.

We note, however, that 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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976). In this instance, some of the responsive information consists of call sheets. In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch report is substantially the same as basic information and thus is not excepted from public disclosure under section 552.108. See ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, because the information in the call sheets is basic information, that information may not be withheld under section 552.108(a)(2) and must generally be released. The city must also release basic information from the remaining incident reports. However, we note that some of the basic information is protected by common-law privacy:

Section 552.101 also encompasses common-law privacy, which 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 types 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 some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. See Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). We have marked portions of the basic information that are highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold this information under section 552.101 in conjunction with common-law privacy.

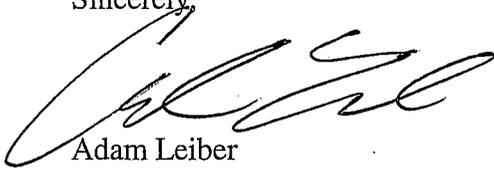
In summary, with the exception of basic information, including the submitted call sheets, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code. In releasing basic information, the city must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

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.

Mr. B. Chase Griffith - Page 3

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 352850

Enc. Submitted documents

c: Requestor
(w/o enclosures)