



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 1, 2009

Mr. David M. Swope
Assistant County Attorney
Harris County Attorney's Office
1019 Congress, 15th Floor
Houston, Texas 77002

OR2009-13849

Dear Mr. Swope:

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# 357334.

The Harris County Sheriff's Office (the "sheriff") received a request for the public information portion of any report, as well as any dispatch records, pertaining to any offenses that occurred at a specified address from January 1, 2009 until the present. You state that you have released some of the responsive information. 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. We have also received and considered comments from the requestor. *See Gov't Code § 552.304* (interested party may submit comments stating why information should or should not be released).

Initially, we note that the requestor seeks only the public information portion or basic information from the offense reports; therefore, non-basic information is not responsive to this request. The sheriff need not release non-responsive information in response to this request, and this ruling will not address that 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). However, basic

information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. *Id.* § 552.108(c). Such basic front-page information refers to the information set forth in *Houston Chronicle Publishing 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), and includes, among other things, the identification and description of the complainant and a detailed description of the offense. *See also* Open Records Decision No. 127 (1976) (summarizing types of information not excepted from disclosure by section 552.108 in *Houston Chronicle*). Furthermore, 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*). Thus, the responsive basic information may not be withheld under section 552.108 of the Government Code. However, as the submitted report pertains to a sexual assault, certain basic information from the report and dispatch record is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy. Furthermore, the sheriff seeks to withhold some of the information in the dispatch record under section 552.101 of the Government Code. Accordingly, we will address these arguments.

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. Section 771.061 of the Health and Safety Code makes confidential “[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service” and “[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service.” Health & Safety Code § 771.061(a). You inform us that the sheriff operates a 9-1-1 communications division. You also state that a department within the sheriff’s office “furnishes computerized information so that the identity and telephone number assigned to a calling origin is provided to the 9-1-1 dispatcher automatically.” Therefore, based upon your representation that your office does in fact operate a computerized 9-1-1 service, and to the extent that the submitted dispatch record contains information that was required to be furnished to your office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, the information is confidential under section 771.061 of the Health and Safety Code and must be withheld under section 552.101 of the Government Code. *See also* Open Records Decision No. 661 at 1-2 (1999). However, information in the submitted dispatch record that was not required to be furnished to your office by a telecommunications service provider and is not contained in an address database used in providing computerized 9-1-1 service is not confidential under section 771.061, and may not be withheld under section 552.101.

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which

would be highly objectionable to a reasonable person, and (2) 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 the identities of victims of sexual abuse or sex-related offenses are excepted from public disclosure under common-law privacy. See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Accordingly, the sheriff must withhold the information we have marked that identifies the victim of a sex-related offense under section 552.101 in conjunction with common-law privacy.

In summary, the sheriff need not release non-responsive information in response to this request. If the sheriff's office operates a computerized 9-1-1 service, and to the extent that the information contained in the requested dispatch record was required to be furnished to the sheriff's office by a telecommunications service provider or is contained in an address database used in providing computerized 9-1-1 service, you must withhold that information under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code. The sheriff must withhold the victim's identifying information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. All other basic information must be released to the requestor.

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.

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, toll free, at (888) 672-6787.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/rl

Ref: ID# 357334

Enc. Submitted documents

c: Requestor
(w/o enclosures)