



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 14, 2009

Mr. Samuel D. Hawk
Assistant City Attorney
Criminal Law and Police Division
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2009-17616

Dear Mr. Hawk:

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# 364602 (ORR #2009-7981).

The Dallas Police Department (the "department") received a request for all reports pertaining to a specified address over a specified time period. You state the department has released some of the requested information. You claim the requested 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 552.101 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 552.101 encompasses section 261.201(a) of the Family Code, which provides as follows:

(a) [T]he following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Service number 109781-W consists of files, reports, records, communications, or working papers used or developed in an investigation under chapter 261. *See id.* § 261.201(a)(1). Furthermore, service number 109781-W reflects the report was referred to Child Protective Services. Thus, we find service number 109781-W is within the scope of section 261.201 of the Family Code. You have not indicated the department has adopted a rule that governs the release of this type of information. Therefore, we assume no such regulation exists. Given this assumption, we conclude service number 109781-W must be withheld under section 552.101 in conjunction with section 261.201 of the Family Code. *See Open Records Decision No. 440 at 2 (1986) (predecessor statute).*

Section 552.101 of the Government Code also encompasses the doctrine of common-law privacy, which excepts from public disclosure private information about an individual if the information (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 or 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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. *See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982)* (sexual assault victim has common-law privacy interest that prevents disclosure of information that would identify the victim). Upon review, we conclude the department must withhold the sexual assault victims' identifying information you have marked in service number 224156-W, as well as the information we have marked in service number 166295-W, under section 552.101 of the Government Code in conjunction with common-law privacy.

You also claim portions of the information you have marked in service numbers 224156-W, 166295-W, 157670-W, 157582-W, and 59501-W are subject to section 552.108(a)(1) of the Government Code, which 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(a)(1) must reasonably explain how and why 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 inform us these reports relate to pending investigations and prosecutions. Based upon your representation and our review, we conclude release of service numbers 224156-W, 166295-W, 157670-W, 157582-W, and 59501-W 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) (per curiam) (court delineates law enforcement interests that are present in active cases). Therefore, section 552.108(a)(1) is generally applicable to the information you have marked in service numbers 224156-W, 166295-W, 157670-W, 157582-W, and 59501-W.¹

However, as you acknowledge, 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* and includes a detailed description of the offense. *See* 531 S.W.2d at 186–87; Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note the remaining portions of service numbers 224156-W, 166295-W, 157670-W, 157582-W, and 59501-W do not contain information sufficient to satisfy the requirement that a “detailed description of the offense” be released as basic information. *See* ORD 127. Accordingly, we determine the department must release a sufficient portion of these narratives to encompass a detailed description of each offense in order to satisfy the required release of basic information pursuant to *Houston Chronicle*. The department may withhold the remaining information you have marked in service numbers 224156-W, 166295-W, 157670-W, 157582-W, and 59501-W under section 552.108(a)(1) of the Government Code.

You assert some of the remaining information is excepted from disclosure under section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). We agree the department must withhold the Texas motor vehicle record information you have marked in service number 59501-W under section 552.130 of the Government Code.

In summary, the department must withhold service number 109781-W under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. The department must withhold the information you have marked in service number 224156-W, as well as the information we have marked in service number 166295-W, under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of a detailed description of each offense, the department may withhold the information you have marked in service numbers 224156-W, 166295-W, 157670-W,

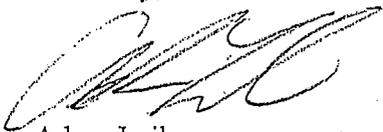
¹As our ruling is dispositive, we do not address your argument for this information under section 552.101 of the Government Code.

157582-W, and 59501-W under section 552.108(a)(1) of the Government Code. The department must withhold the information you have marked in service number 59501-W under section 552.130 of the Government Code. The remaining information must be released.

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# 364602

Enc. Submitted documents

c: Requestor
(w/o enclosures)