



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2010

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

OR2010-00220

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# 371649.

The McKinney Police Department (the "department"), which you represent, received a request for information pertaining to a specified incident. 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.

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). Generally, a governmental body claiming section 552.108(a)(1) 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 submitted information relates to an open and pending criminal investigation. Based upon your representation and our review, we conclude that the release of the submitted 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). Thus, section 552.108(a)(1) is applicable to the submitted information.

We note 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). Basic information refers

to the information held to be public in *Houston Chronicle* and includes, among other things, a detailed description of the offense and the identification and description of the complainant. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note the requested information pertains to an alleged sexual assault where the complainant is the victim. Generally, the identity of a sexual assault victim must be withheld from the public under section 552.101 of the Government Code in conjunction with common law privacy. See Open Records Decision Nos. 393 (1983), 339 (1982). Here, although you seek to withhold the basic information in its entirety, the requestor in this instance is the victim of the alleged sexual assault and has a special right of access to information that must otherwise be withheld from public disclosure to protect the victim's privacy.<sup>1</sup> See Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). Accordingly, with the exception of basic information, which must be released to this requestor, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. We note that you have the discretion to release all or part of the submitted information that is not otherwise confidential by law. Gov't Code § 552.007.

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](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,

  
Laura Ream Lemus  
Assistant Attorney General  
Open Records Division

LRL/jb

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<sup>1</sup>Therefore, should the department receive another request for this same information from a person who would not have a special right of access to it, the department should resubmit the same information and request another ruling from this office.

Ref: ID# 371649

Enc. Submitted documents

c: Requestor  
(w/o enclosures)