



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

March 17, 2010

Mr. B. Chase Griffith
Brown and Hofmeister, LLP
740 East Campbell Road, Suite 800
Richardson, Texas 75081

OR2010-03776

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#376966.

The McKinney Police Department (the "department"), which you represent, received a request for all reports naming victims or complainants at a specified address over a period of three years. 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: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). A governmental body claiming section 552.108(a) 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) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that the information at issue relates to a pending criminal investigation. Based on your representation and our review, we agree that section 552.108(a)(1) is applicable to the submitted information.

basic front-page information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). The department must release basic front-page information under section 552.108(c), even if the information does not literally appear on the front page of an offense or arrest report. Basic information under section 552.108(c) includes the name of the complainant and a detailed description of the offense. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). However, portions of the basic information in this instance are excepted from disclosure under the common-law right to privacy.

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 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). In Open Records Decision No. 393 (1983), this office concluded 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. ORD 393 at 2; *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). In this instance, the complainant in the submitted incident report is the victim of an alleged sex-related offense; therefore, the department must withhold the complainant’s identifying information in the submitted incident report under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, with the exception of basic information, the department may withhold the submitted information pursuant to section 552.108 of the Government Code. However, in releasing the basic information, the department must withhold the complainant’s identifying information 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.

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,

A handwritten signature in black ink, appearing to read 'V Burgess', written over a horizontal line.

Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/jb

Ref: ID#376966

Enc. Submitted documents

c: Requestor
(w/o enclosures)