



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 5, 2010

Mr. Mack Reinwand
Assistant City Attorney
Arlington Police Department
P.O. Box 1065
Arlington, Texas 76004-1065

OR2010-04685

Dear Mr. Reinwand:

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# 374669 (APD Reference No. 2010-01-061).

The Arlington Police Department (the "department") received a request for a full offense report concerning a named individual and a specified incident on January 1, 2010, including report numbers 100000137 and 100010551. You claim report numbers 10-137 and 10-165 and calls-for-service details number 100010551 are 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 the doctrine of common-law privacy, which protects information that (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type 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. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, the request reveals the requestor knows the identity of the individual involved as well as the nature of the information in report number 10-137. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the department must withhold report number 10-137 in its entirety under section 552.101 in conjunction with common-law privacy. We will next address your argument against disclosure of report number 10-165 and calls-for-service details number 100010551.

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). A governmental body claiming section 552.108 must reasonably explain how and why release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert report number 10-165 and calls-for-service details number 100010551 relate to an open and pending case. Based upon your representations and our review, we determine the release of report number 10-165 and calls-for-service details number 100010551 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). Therefore, we conclude section 552.108(a)(1) is applicable to report number 10-165 and calls-for-service details number 100010551.

We note, however, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. *See* Open Records Decision No. 127 at 4 (1976) (summarizing types of information made public by *Houston Chronicle*). Accordingly, with the exception of basic information, report number 10-165 and calls-for-service details number 100010551 may be withheld under section 552.108(a)(1).

In summary, report number 10-137 must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, report number 10-165 and calls-for-service details number 100010551 may be withheld under section 552.108(a)(1).

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,



Jessica Eales
Assistant Attorney General
Open Records Division

JCE/eeg

Ref: ID# 374669

Enc. Submitted documents

c: Requestor
(w/o enclosures)