



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 27, 2010

Ms. Katie Lentz  
Open Records  
Williamson County Sheriff  
508 South Rock Street  
Georgetown, Texas 78626

OR2010-07724

Dear Ms. Lentz:

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# 380904.

The Williamson County Sheriff's Office (the "sheriff") received a request for any incident report for a named individual and involving a named complainant and another request from the same requestor for a specified incident report.<sup>1</sup> You claim the submitted information is exempted 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 note you have not submitted information responsive to the request for incident reports involving a named individual and a named complainant. To the extent information regarding this portion of the request existed on the date the sheriff received this request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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<sup>1</sup>We note the requestor has agreed to the redaction of social security numbers, Texas driver's license numbers, Texas license plate numbers, and vehicle identification numbers. Accordingly, any of this information within the submitted documents is not responsive to the present request. The sheriff need not release non-responsive information, and we do not address such information in this ruling.

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). Generally, only 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. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, a governmental body is required to withhold an entire report when the requestor knows the identity of the alleged victim. *See* ORD 393. Although you seek to withhold the submitted report in its entirety under common-law privacy, you have not demonstrated, nor does the information reflect, that the requestor knows the identity of the alleged sexual assault victim. Thus, the sheriff may not withhold the submitted information in its entirety under section 552.101 in conjunction with common-law privacy.

Section 552.108(a)(2) 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 . . . it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]” Gov’t Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information the governmental body seeks to withhold. *See id.* §§ 552.108, 301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert the submitted information pertains to a criminal investigation that was closed and led to no criminal charges being pursued. Therefore, we agree the submitted information pertains to a concluded case that did not result in a conviction or deferred adjudication. Accordingly, we find section 552.108(a)(2) is generally applicable the submitted information.

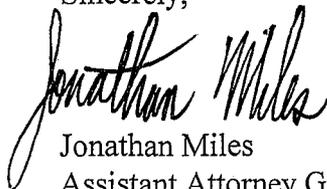
Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*, and includes the identity of the complainant and a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). As previously noted, information that identifies a sexual assault victim must be withheld to protect the victim’s privacy. *See* ORD 393. Accordingly, the identifying information of the victim, who was the complainant in this case, must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Thus, we conclude, with the exception of basic information, which must be released, the sheriff may withhold the submitted information under section 552.108(a)(2) of

the Government Code. In releasing the basic information, the sheriff must withhold the information identifying the alleged sexual assault victim, which we have marked, under 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](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,



Jonathan Miles  
Assistant Attorney General  
Open Records Division

JM/jb

Ref: ID# 380904

Enc. Submitted documents

c: Requestor  
(w/o enclosures)