



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

June 7, 2011

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2011-08074

Dear Mr. Mann:

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# 419925 (GCA 11-02335).

The Garland Police Department (the "department") received a request for all reports pertaining to the requestor for a specified time period. You state the department has released most of the requested information. You claim the marked portions of the submitted reports 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.

You raise section 552.108 for the information marked in red in reports 2010R006489 and 2010R006239. 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 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 reports 2010R006489 and 2010R006239 pertain to alleged criminal offenses which are currently being investigated by the department. Based on your representations and our review, we conclude the release of the marked information would interfere with the detection, investigation, or prosecution of these crimes. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Thus, the department may withhold the information marked in red in reports 2010R006489 and 2010R006239 under section 552.108(a)(1) of the Government Code.

You assert the information marked in blue in reports 2010R006239 and 2010R006728 is protected by common-law 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 exception 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. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). The marked information is the medical information of an individual other than the requestor. We find this information is not of legitimate public interest in this instance. Accordingly, the department must withhold the information marked in blue in reports 2010R006239 and 2010R006728 under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department may withhold the information marked in red in reports 2010R006489 and 2010R006239 under section 552.108(a)(1) of the Government Code. The department must withhold the information marked in blue in reports 2010R006239 and 2010R006728 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, 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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

Ref: ID# 419925

Enc. Submitted documents

c: Requestor
(w/o enclosures)