



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 22, 2012

Ms. Linda Pemberton
Paralegal
City of Killeen
P.O. Box 1329
Killeen, Texas 76540-1329

OR2012-09686

Dear Ms. Pemberton:

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# 457038 (Killeen ID# W007798).

The City of Killeen (the "city") received a request for all calls and reports related to the requestors' address during the years 2008 through 2012. You state you have released some information to the requestors. You claim 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 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. *See* 540 S.W.2d at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). This office has also found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-

law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). You seek to withhold call for service numbers 9079622 and 1335559 in their entirety on the basis of common-law privacy. Upon review, we find portions of call for service number 9079622, which we have marked, are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the city must withhold the information we have marked in call for service number 9079622. However, we find you have failed to demonstrate any of the remaining information in call for service numbers 9079622 and 1335559 is highly intimate or embarrassing and of no legitimate public concern. Therefore, the city may not withhold any of the remaining information in call for service numbers 9079622 and 1335559 under section 552.101 of the Government Code in conjunction with common-law privacy.

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 must reasonably explain how and why section 552.108 is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state police report numbers 09-012130, 10-008725, and 11-003104 and their associated calls for service relate to cases in which the investigations have not been completed. You argue release of these reports and their associated calls for service would hinder the ability of detectives to conduct thorough investigations. Based on these representations and our review, we conclude release of police report numbers 09-012130, 10-008725, and 11-003104 and their associated calls for service would interfere with the detection, investigation, or prosecution of a crime. *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 per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, we find section 552.108(a)(1) is applicable to police report numbers 09-012130, 10-008725, and 11-003104 and their associated calls for service.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, which you state you will release, the city may withhold police report numbers 09-012130, 10-008725, and 11-003104 and their associated calls for service under section 552.108(a)(1) of the Government Code.

In summary, the city must withhold the information we have marked in call for service number 9079622 under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the city may withhold police

report numbers 09-012130, 10-008725, and 11-003104 and their associated calls for service under section 552.108(a)(1) of the Government Code. The remaining information must be released.

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 Marsh
Assistant Attorney General
Open Records Division

JM/bhf

Ref: ID# 457038

Enc. Submitted documents

c: 2 Requestors
(w/o enclosures)