



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 27, 2012

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469

OR2012-20778

Dear Ms. Rangel:

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# 474822.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information pertaining to two specified cases involving a named individual. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Section 552.108(a)(1) 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 the conviction of one of the individuals involved in the submitted reports is currently being appealed. Thus, you state

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<sup>1</sup>We assume the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

the submitted information pertains to currently active files of the Fort Bend County District Attorney's Office. You state the facts and evidence in each submitted report may be used to defend against the pending appeal. Based upon this representations, we conclude the release of the information at issue 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) (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, section 552.108(a)(1) is applicable to the submitted reports.<sup>2</sup>

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). Section 552.108(c) refers to the basic front-page offense and arrest information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88. We note basic information does not include motor vehicle record information subject to section 552.130 of the Government Code. *See* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of the basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code.

We understand you to raise section 552.101 in conjunction with common-law privacy for the basic 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. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *See id.* at 681-82. The types 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. *See id.* at 683. Upon review, we find you have failed to demonstrate any portion of the basic information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, the sheriff's office may not withhold any of the basic information under section 552.101 of the Government Code in conjunction with common-law privacy.

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<sup>2</sup>As our ruling is dispositive, we need not address your argument under section 552.108(b)(1) of the Government Code.

In summary, with the exception of basic information, the sheriff's office may withhold the submitted information under section 552.108(a)(1) of the Government Code. The remaining information must be released.<sup>3</sup>

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,



Kathleen J. Santos  
Assistant Attorney General  
Open Records Division

KJS/dls

Ref: ID# 474822

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>3</sup>We note basic information includes an arrestee's social security number. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting an attorney general decision under the Act. See Gov't Code § 552.147(b).