



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 15, 2013

Ms. Karin W. Riley
Associate General Counsel
University of North Texas System
1901 Main Street, Suite 216
Dallas, Texas 75201

OR2013-08060

Dear Ms. Riley:

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# 487571.

The University of North Texas (the "university") received a request for all records for any incidents of sexual assault during a specified time period. You claim that 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.¹

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 this exception is applicable to the information at issue. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state report number 1301112 relates to an ongoing criminal investigation with the university's police department (the "department") and report number 1380412 relates to a pending criminal prosecution with the Denton

¹We assume that 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.

County District Attorney's Office (the "district attorney's office"). You provide statements from the department and the district attorney's office stating release of this information would interfere with the ongoing criminal investigation and pending criminal prosecution. Based on your representations and our review, we find that release of report numbers 1301112 and 1380412 would interfere with the detection, investigation, or prosecution of crime. Therefore, section 552.108(a)(1) is applicable to the submitted information. 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).

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). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Basic information, among other things, includes the location of the offense, the identity and description of the complainant, and a detailed description of the offense, but does not include the complainant's address or telephone number, unless the address is the location of the crime, the place of the arrest, or the premises involved. With the exception of basic information, the university may withhold the information at issue under section 552.108(a)(1) of the Government Code.

We note portions of the remaining information, including the basic information for report numbers 1301112 and 1380412, are protected by common-law privacy. The remaining information at issue is related to alleged sexual assaults. 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 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. This office has concluded common-law privacy protects information that either identifies or tends to identify a victim of a sexual assault or other sex-related offense. See Open Records Decision Nos. 393 (1983), 339 (1982). We note some of the alleged victims in the remaining information are identified by pseudonyms. Thus, these victims' identities are sufficiently protected in the remaining information. However, the university must withhold the identifying information of the alleged sexual assault victims we have marked in the remaining information, including the information we have marked in the basic information for report numbers 1301112 and 1380412, under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued

by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1), (2). Accordingly, the university must withhold the motor vehicle record information you have marked, in addition to the motor vehicle record information we have marked, under section 552.130 of the Government Code.

In summary, with the exception of basic information, the university may withhold report numbers 1301112 and 1380412 under section 552.108(a)(1) of the Government Code. The university must withhold the identifying information of the alleged sexual assault victims, which we have marked in the remaining information, including the information we have marked in the basic information for report numbers 1301112 and 1380412, under section 552.101 of the Government Code in conjunction with common-law privacy. The university must withhold the motor vehicle record information it has marked, in addition to the motor vehicle record information we have marked, in the remaining information under section 552.130 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,



Vanessa Burgess
Assistant Attorney General
Open Records Division

VB/dls

Ref: ID# 487571

Enc. Submitted documents

c: Requestor
(w/o enclosures)