



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 21, 2013

Ms. Delietrice Henry
Open Records Assistant
City of Plano Police Department
P.O. Box 860358
Plano, Texas 75086-0358

OR2013-08422

Dear Ms. Henry:

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# 492370 (ORR #KAFR041513).

The Plano Police Department (the “department”) received a request for information pertaining to a specified address for a specified period of time. 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 552.108(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 information in Exhibit B is related to a pending criminal case. You also state the Collin County District Attorney’s Office objects to the release of the information at issue because prosecution is pending. Based on these representations, we find that 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 curium*, 536 S.W.2d 559 (Tex. 1976).

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" information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of the basic information, the department may withhold Exhibit B under section 552.108(a)(1).

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 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 met. *Id.* at 681-82. The type 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. *Id.* at 683. This office has also found the identities of victims of sexual abuse are excepted from required public disclosure under common-law privacy. See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review, we find the information we have marked in Exhibit C is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the marked information pursuant to section 552.101 in conjunction with common-law privacy. However, we find no portion of the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Therefore, none of the remaining information may be withheld on the basis of common-law privacy.

In summary, except the basic information, the department may withhold Exhibit B under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked in Exhibit C under section 552.101 of the Government Code in conjunction with common-law privacy. 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,

A handwritten signature in cursive script that reads "Paige Lay".

Paige Lay
Assistant Attorney General
Open Records Division

PL/bhf

Ref: ID# 492370

Enc. Submitted documents

cc: Requestor
(w/o enclosures)