



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 3, 2014

Ms. Michelle T. Rangel
Assistant County Attorney
Fort Bend County
401 Jackson Street, 3rd Floor
Richmond, Texas 77469

OR2014-19873

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# 541883.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for information pertaining to named individuals and specified addresses on specified dates. You state you will release some information to the requestor. 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) 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 offense report 14-280 has been referred to the Justice Court but is within the statute of limitations and may still be prosecuted. *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). Based on these representations, we conclude section 552.108(a)(1) of the Government Code is applicable to offense report 14-280.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 at 2–3 (1986). You state offense reports 13-31450 and 13-31727 are closed investigations that did not result in a conviction or deferred adjudication. Based on these representations, we conclude section 552.108(a)(2) of the Government Code is applicable to offense reports 13-31450 and 13-31727.

However, section 552.108 does not except from disclosure basic information about a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle*. 531 S.W.2d at 186–87. This information includes, but is not limited to, a detailed description of the offense. *See* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the sheriff's office may withhold case number 14-280 under section 552.108(a)(1) of the Government Code and offense reports 13-31450 and 13-31727 under section 552.108(a)(2) of the Government Code.¹

You assert the basic information from the reports 13-31450 and 13-31727 contains information 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. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Upon review, we find the information we have indicated in report 13-31450 satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, in releasing basic information from report 13-31450, the sheriff's office must withhold the types of information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find you have not established any of the remaining basic information in report 13-31450 or any of the basic information in report 13-31727 is highly intimate or embarrassing information of no legitimate public interest. Thus, none of the remaining

¹As our ruling is dispositive for this information, we need not address your assertion against its disclosure as criminal history record information under section 552.101 of the Government Code.

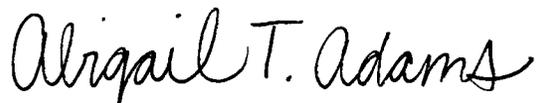
information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, with the exception of basic information, the sheriff's office may withhold case number 14-280 under section 552.108(a)(1) of the Government Code and offense reports 13-31450 and 13-31727 under section 552.108(a)(2) of the Government Code. In releasing the basic information from report 13-31450, the sheriff's office must withhold the types of information we have indicated 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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Abigail T. Adams
Assistant Attorney General
Open Records Division

ATA/ac

Ref: ID# 541883

Enc. Submitted documents

c: Requestor
(w/o enclosures)