



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 14, 2009

Ms. Angela M. DeLuca  
Assistant City Attorney  
City of Bryan  
P.O. Box 1000  
Bryan, Texas 77805

OR2009-04912

Dear Ms. DeLuca:

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# 344390.

The City of Bryan (the "city") received a request for any information relating to a specified police report. You claim that the submitted information is excepted from disclosure under sections 552.103 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108 of the Government Code excepts from public 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 that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex.1977). You state, and provide documentation showing, that the submitted information relates to a pending criminal prosecution being conducted by the Brazos County District Attorney's Office. Based on your representation and our review of the submitted documents, we conclude release of the submitted information would interfere with the detection, investigation, or prosecution of crime. Therefore, we agree that section 552.108(a)(1) is applicable to the submitted

information.<sup>1</sup> See *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), writ ref'd n.r.e. per curiam, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases); see also Open Records Decision Nos. 474 (1987), 372 (1983) (where incident involving allegedly criminal conduct is still under active investigation or prosecution, section 552.108 may be invoked by any proper custodian of information relating to incident).

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*. The city must release basic information under section 552.108(c), even if the information does not literally appear on the front page of an offense or arrest report. We note that basic information includes the identity of the complainant and a detailed description of the offense. See Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). However, because the submitted information pertains to an alleged sexual assault, certain basic information is subject to section 552.101 of the Government Code and common-law privacy.<sup>2</sup>

Common-law privacy 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). Information that either identifies or tends to identify a victim of sexual assault must be withheld under common-law privacy. See Open Records Decisions Nos. 393 (1983), 339 (1982). Accordingly, the city must withhold the victim’s identifying information, which includes the victim’s name, address, and home telephone number, from basic information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, except for basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code. In releasing basic information, the department must withhold the sexual assault victim’s name, address, and home telephone number under section 552.101 of the Government Code in conjunction with common-law privacy.

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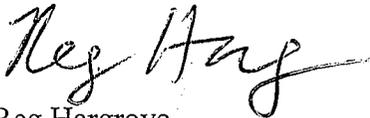
<sup>1</sup>As we are able to make this determination under section 552.108, we need not address your argument under section 552.103 of the Government Code, except to note that section 552.103 generally does not except from disclosure the same basic information that is subject to section 552.108(c). See Open Records Decision No. 597 (1991).

<sup>2</sup>Section 552.101 excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. The Office of the Attorney General will raise a mandatory exception like section 552.101 of the Government Code on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 at (512) 475-2497.

Sincerely,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 344390

Enc. Submitted documents

c: Requestor  
(w/o enclosures)