



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 9, 2009

Ms. Michelle T. Rangel  
Assistant County Attorney  
Fort Bend County  
301 Jackson Street, Suite 728  
Richmond, Texas 77469-3108

OR2009-14294

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# 358189.

The Fort Bend County Sheriff's Office (the "sheriff") received a request for two specified offense reports. We note that the requestor excluded social security numbers, driver's license numbers, and state identification numbers of third parties from her request. Therefore, any such information within the submitted information is not responsive to this request. The sheriff need not release non-responsive information, and this ruling will not address that information. You also state you will release some of the requested information to the requestor. 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.<sup>1</sup>

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

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<sup>1</sup>We 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.

prosecution of crime [if] release of the information would interfere with the detection, investigation, or prosecution of crime.” 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 Gov’t Code §§ 552.108(a)(1), 552.301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state that incident report number 09-18180 relates to a pending criminal investigation. Based on this representation, we conclude that the release of this report 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. App.—Houston [14th Dist.] 1975), writ ref’d n.r.e., 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases).

Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state that incident report 09-10430 pertains to a closed case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree that section 552.108(a)(2) is applicable to this report.

We note, however, that 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). Basic information refers to the information held to be public in *Houston Chronicle*, and includes a detailed description of the offense. Therefore, with the exception of basic information, the sheriff may withhold incident report number 09-18180 pursuant to section 552.108(a)(1) of the Government Code and incident report number 09-10430 pursuant to section 552.108(a)(2) of the Government Code. In this instance, however, you seek to withhold portions of the basic information under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup> Accordingly, we will address this claim against disclosure of the remaining 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.” This section 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). The types of information considered intimate and 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,

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<sup>2</sup>We need not address your remaining argument under section 552.130 of the Government Code, except to note that basic information described in *Houston Chronicle* does not include information subject to section 552.130.

attempted suicide, and injuries to sexual organs. *Id.* at 683. Upon review, the sheriff must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

In summary, with the exception of basic information, the sheriff may withhold incident report number 09-18180 under section 552.108(a)(1) of the Government Code and incident report number 09-10430 under section 552.108(a)(2) of the Government Code. In releasing basic information, the sheriff must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining basic information must be released to the requestor.

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,



Adam Leiber  
Assistant Attorney General  
Open Records Division

ACL/rl

Ref: ID# 358189

Enc. Submitted documents

c: Requestor  
(w/o enclosures)