



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2016

Ms. Rebeckah Desai
Director of Risk Services
St. Edward's University
3001 South Congress Avenue
Austin, Texas 78704-6489

OR2016-01653

Dear Ms. Desai:

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# 594990.

The St. Edward's University Police Department (the "department") received a request for all reports concerning sexual assaults for a specified period of time.¹ The department claims the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information. We have also considered comments submitted by the requestor. *See* Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note the requestor excluded from his request the name of any sexual assault victim, student identification numbers, social security numbers, vehicle identification numbers, license plate numbers, and driver's license numbers. Thus, such information in the submitted documents is not responsive to the request for information. This ruling does not address the public availability of any information that is not responsive to the request, and the department is not required to release this information in response to this request.

¹The requestor clarified his initial request. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (if governmental entity, acting in good faith, requests clarification of unclear or over-broad request, ten-day period to request attorney general ruling is measured from date request is clarified).

See generally Econ. Opportunities Dev. Corp. v. Bustamante, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed).

The department asserts the submitted responsive information is excepted from disclosure under section 552.108(a) of the Government Code, which excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) 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(a)(1) must reasonably explain how and why the release of the information at issue 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, 710 (Tex. 1977). The department states the submitted information relates to pending criminal investigations. Based on this representation, we conclude the release of this information 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, 186-87 (Tex. Civ. App.—Houston [14th Dist.] 1975) (delineating law enforcement interests present in active cases), *writ refused n.r.e. per curiam*, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes the location of the crime, a detailed description of the offense, and the identity of the complainant, but does not include the identity of the victim, unless the victim is the complainant, or the home address or telephone number of the complainant, unless the address is the location of the crime, premises involved, or place of arrest. *See* ORD 127. Thus, with the exception of basic information, the department may withhold the submitted responsive information under section 552.108(a)(1) of the Government Code.²

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. In addition, this office has found information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under

²As our ruling is dispositive, we do not address the other arguments of the department to withhold this information.

common-law privacy. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review, we find some of the basic information, which we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

To conclude, with the exception of basic information, the department may withhold the submitted responsive information under section 552.108(a)(1) of the Government Code. However, in releasing basic information, the department must withhold the information we have marked 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,


James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/bhf

Ref: ID# 594990

Enc. Submitted documents

c: Requestor
(w/o enclosures)