



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

January 22, 2016

Ms. D'Ann Lacey Bey
Assistant City Attorney
City of Arlington
P.O. Box 1065, Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2016-01658

Dear Ms. Bey:

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# 595278 (Police Dept. Reference No. 24083).

The Arlington Police Department (the "department") received a request for all information pertaining to all criminal charges made against the requestor, including 9-1-1 calls and 9-1-1 call sheets, during a specified time period and involving a named individual. You claim the submitted information is excepted from disclosure under section 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). Generally, a governmental body claiming section 552.108(a)(1) 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, 710 (Tex. 1977). You state the submitted information relates to criminal incidents that have not received final dispositions and are still being investigated. Based upon this representation, we conclude the release of the submitted 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) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559, 560-61 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to the submitted information.

However, section 552.108(a)(1) of the Government Code 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 does not include dates of birth. See 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(1).¹

You seek to withhold the basic information under section 552.101 of the Government Code in conjunction with common-law privacy. Section 552.101 excepts "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. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy.

You seek to withhold the entirety of the basic information under section 552.101 of the Government Code in conjunction with common-law privacy. However, you have not demonstrated this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Accordingly, the department may not withhold the entirety of the basic information under section 552.101 on that basis. We note some of the basic information pertains to the requestor, who has a special right of access to her own information that is protected by common-law privacy. See Gov't Code § 552.023(a) ("person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning herself). Thus, the department may not withhold the requestor's own information under section 552.101 on the basis of common-law privacy. However, we find the information we have marked satisfies the standard established in *Industrial Foundation*. Therefore, within the basic information, the department must withhold the information we have marked not pertaining to the requestor under section 552.101 in conjunction with common-law privacy. Upon review, we find you have not demonstrated the remaining basic information at issue is highly intimate or embarrassing and not of legitimate public concern. Thus, the department may not withhold

¹As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

the remaining basic information under section 552.101 in conjunction with common-law privacy.

In summary, with the exception of basic information, which the department must release, the department may withhold the submitted information under section 552.108(a)(1) of the Government Code. Within the basic information, the department must withhold the information we have marked not pertaining to the requestor under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining basic information must be released.²

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,



Cole Hutchison
Assistant Attorney General
Open Records Division

CH/bhf

Ref: ID# 595278

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note the basic information being released contains the social security number of an arrestee. Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. See Gov't Code § 552.147(b).