



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

May 25, 2016

Mr. Matthew L. Grove
Assistant County Attorney
Fort Bend County
401 Jackson St. 3rd Floor
Richmond, Texas 77469

OR2016-11973

Dear Mr. Grove:

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# 614485.

The Fort Bend County Sheriff's Office (the "sheriff's office") received a request for all records pertaining to a specified address from a specified time period. You state the sheriff's office will release some information. You claim the remaining requested 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.¹

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* 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 has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A)

¹We 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.

(governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the submitted information pertaining to report numbers 14-841, 14-3867, 14-12487, 14-25601, 14-27959, 15-17232, 15-19841, 15-26945, and 15-37774 relate to closed cases that did not result in convictions or deferred adjudications. Based on your representation and our review, we agree section 552.108(a)(2) is applicable to this information.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing 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). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information includes, among other things, a detailed description of the offense. *See id.* Thus, with the exception of the basic information, the sheriff's office may withhold the submitted information pertaining to report numbers 14-841, 14-3867, 14-12487, 14-25601, 14-27959, 15-17232, 15-19841, 15-26945, and 15-37774 under section 552.108(a)(2) of the Government Code.²

Section 552.101 of the Government Code 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. You claim the remaining information is confidential under common-law privacy. Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. We note the requestor has a right of access to most of this information pursuant to section 552.023 of the Government Code, and it may not be withheld from her on the basis of common-law privacy. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). However, the sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office may not withhold any of the remaining information under section 552.101 in conjunction with common-law privacy.

²As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

In summary, with the exception of the basic information, the sheriff's office may withhold the submitted information pertaining to report numbers 14-841, 14-3867, 14-12487, 14-25601, 14-27959, 15-17232, 15-19841, 15-26945, and 15-37774 under section 552.108(a)(2) of the Government Code. The sheriff's office must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The sheriff's office must release the remaining information.

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,



Sean Nottingham
Assistant Attorney General
Open Records Division

SN/akg

Ref: ID# 614485

Enc. Submitted documents

c: Requestor
(w/o enclosures)