



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 24, 2017

Ms. Lynn M. Winter
Assistant City Attorney
Office of the City Attorney
City of Fort Worth
200 Texas Street, 3rd Floor
Fort Worth, Texas 76102

OR2017-08548

Dear Ms. Winter:

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# 654478 (PIR No. W058870).

The City of Fort Worth (the "city") received a request for a specified police report. The city claims the submitted information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions the city claims and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the information at issue relates to a criminal investigation that has concluded in a final result other than conviction or deferred adjudication. *See id.* §§ 552.108(a)(2), .301(e)(1)(A). The city states the submitted information pertains to a criminal investigation that did not result in prosecution, conviction, or deferred adjudication. Therefore, 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* Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note basic information includes, among other items, the location of the crime, the identification of the complainant, the premises involved, and a detailed description of the offense. *See id.* Thus, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code.

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. This section 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. This office has found common-law privacy generally protects the identifying information of juvenile victims of abuse or neglect. *See* Open Records Decision No. 394 (1983); *cf.* Fam. Code § 261.201. This office has also concluded information that identifies or tends to identify a victim of sexual assault or other sex-related offenses must be withheld under common-law privacy. Open Records Decision No. 393 at 2 (1983). Upon review, we find some of the basic information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the portions of the basic information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the city has not demonstrated any portion of the remaining basic information is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city may not withhold any portion of the remaining basic information under section 552.101 in conjunction with common-law privacy.

Section 552.1175 of the Government Code may be applicable to some of the remaining basic information.¹ Section 552.1175 protects the home address, home telephone number, emergency contact information, date of birth, social security number, and family member information of certain individuals, when that information is held by a governmental body in a non-employment capacity and the individual elects to keep the information confidential. *See* Gov’t Code § 552.1175. The city must withhold the portion of the remaining basic information we have marked under section 552.1175 if the individual to whom the

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

information belongs is currently a licensed peace officer and elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code.

In summary, with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(2) of the Government Code. The city must withhold the portions of the basic information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the portion of the remaining basic information we have marked under section 552.1175 of the Government Code if the individual to whom the information belongs is currently a licensed peace officer and elects to restrict access to this information in accordance with section 552.1175(b) of the Government Code. The city must release the remaining basic 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/som

Ref: ID# 654478

Enc. Submitted documents

c: Requestor
(w/o enclosures)