



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

November 20, 2020

Ms. Marisa C. Martinez
Open Records Specialist
Richardson Police Department
P.O. Box 831078
Richardson, Texas 75083-1078

OR2020-29102

Dear Ms. Martinez

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# 854762 (ORR# P005371-090820).

The Richardson Police Department (the “department”) received a request for all calls involving the requestor and a named individual at a specified address during a specified time period. The department 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 department claims 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). A governmental body claiming section 552.108(a)(1) must 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 (Tex. 1977). The department states case number 202000062957 pertains to an active criminal investigation or prosecution. Based on this representation, we conclude the release of the information at issue 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. 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 (Tex. 1976). Thus, section 552.108(a)(1) is applicable to case number 202000062957.

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) (governmental body must provide comments explaining why exceptions raised should apply to information requested). The department states case numbers 202000056373, 202000047285, 202000038047, 202000027118, and 202000023504 pertain to closed cases that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to case numbers 202000056373, 202000047285, 202000038047, 202000027118, and 202000023504.

However, we note 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*. *See* 531 S.W.2d at 186-88; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of the basic information, the department may withhold case number 202000062957 under section 552.108(a)(1) of the Government Code and may withhold case numbers 202000056373, 202000047285, 202000038047, 202000027118, and 202000023504 under section 552.108(a)(2) of the Government Code.

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. Upon review, we find some of the basic information, which the department marked and we marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Therefore, the department must withhold the information it marked and we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, with the exception of the basic information, the department may withhold case number 202000062957 under section 552.108(a)(1) of the Government Code and may withhold case numbers 202000056373, 202000047285, 202000038047, 202000027118, and 202000023504 under section 552.108(a)(2) of the Government Code. In releasing the basic information, the department must withhold the information it marked and we 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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Claire V. Morris Sloan
Assistant Attorney General
Open Records Division

CVMS/rm

Ref: ID# 854762

Enc. Submitted documents

c: Requestor
(w/o enclosures)