



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 17, 2007

Mr. Rashaad V. Gambrell  
Assistant City Attorney  
City of Houston  
P.O. Box 368  
Houston, Texas 77001-0368

OR2007-04310

Dear Mr. Gambrell:

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# 275855.

The Houston Police Department (the "department") received a request for all service reports and uniform crime reports for a specified address "for the two year time period prior to June 28, 2004." You claim that the submitted offense reports are excepted from disclosure under sections 552.101, 552.108, 552.130, 552.136, and 552.147 of the Government Code.<sup>1</sup> We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You raise section 552.101 in conjunction with the common-law right to privacy. Information must be withheld from the public under section 552.101 in conjunction with common-law privacy when the information is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident*

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<sup>1</sup>To the extent any additional responsive information existed on the date the department received this request, we assume you have released it. If you have not released any such records, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

*Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Common-law privacy encompasses the specific types of information that are held to be intimate or embarrassing in *Industrial Foundation*. *See id.* at 683 (information relating to sexual assault, pregnancy, mental or physical abuse in workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs). Therefore, the department must withhold the information we have marked in Exhibit 5 under section 552.101 in conjunction with common-law privacy.

We now address your claims under section 552.108 of the Government Code for the remaining submitted information. Section 552.108 provides in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from [required public disclosure] if:

- (1) release of the information would interfere with the detection, investigation or prosecution of crime;
- (2) it is information that deals with the detection, investigation or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]

Gov't Code § 552.108(a). 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* Gov't Code §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You indicate that Exhibits 2, 3, 6, 6-A, and 7 relate to pending criminal cases. However, we note that Exhibit 3 relates to an alleged violation of section 550.022 of the Transportation Code that occurred on December 12, 2003. *See* Transp. Code § 550.022. A violation of section 550.022 is a misdemeanor offense. *Id.* § 550.022(c). An indictment or information for any misdemeanor must be presented within two years from the date of the commission of the offense. *See* Crim. Proc. Code art. 12.02. With regard to Exhibit 3, you have neither informed this office that any criminal charges were filed within the limitations period nor have you explained how release of the information would interfere with the detection, investigation, or prosecution of an offense for which the statutes of limitations has run. Thus, the department has not shown the applicability of section 552.108(a)(1) to Exhibit 3.

However, based upon your representations and our review of Exhibits 2, 6, 6-A, and 7 we conclude that 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 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). You also claim that Exhibit 4 pertains to a criminal investigation that concluded in

a final result other than conviction or deferred adjudication. Upon review, we agree that section 552.108(a)(2) applies to Exhibit 4.

We note, however, that basic information about an arrested person, an arrest, or a crime is not excepted from disclosure under section 552.108. Gov't Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle*. See Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the department may withhold Exhibits 2, 6, 6-A, and 7 pursuant to section 552.108(a)(1), and Exhibit 4 pursuant to section 552.108(a)(2).

Section 552.130 of the Government Code excepts from disclosure information that “relates to . . . a motor vehicle operator’s or driver’s license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state.” Gov’t Code § 552.130. The department must withhold the Texas motor vehicle record information we have marked in the remaining submitted information.

In summary, the department must withhold the information we have marked in Exhibit 5 under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the department may withhold Exhibits 2, 6, 6-A and 7 pursuant to section 552.108(a)(1) and Exhibit 4 pursuant to section 552.108(a)(2). The department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor. As our ruling is dispositive, we do not address your remaining claims.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the

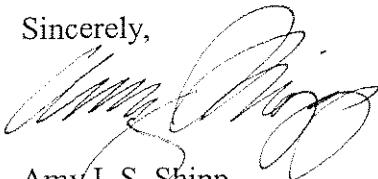
statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Amy L.S. Shipp  
Assistant Attorney General  
Open Records Division

ALS/sdk

Ref: ID# 275855

Enc. Submitted documents

c: Mr. Joshua R. Leal  
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(w/o enclosures)