



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 4, 2009

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2009-07627

Dear Mr. Phillips:

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# 345176.

The City of Fort Worth (the "city") received a request for incident report number 07-30991. You state that you have redacted Texas motor vehicle information pursuant to the previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state that you have redacted social security numbers pursuant to section 552.147 of the Government Code. See Gov't Code § 552.147(b). You claim that the remaining requested information is excepted from disclosure under sections 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) 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." A governmental body claiming section 552.108 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), 552.301(e)(1)(A); see also *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). Section 552.108 may be invoked by the proper custodian of information relating to an investigation or prosecution of criminal conduct. See Open Records Decision

Nos. 474 at 4-5 (1987). Where a governmental body possesses information relating to a pending case of a law enforcement agency, the governmental body may withhold the information under section 552.108 if (1) it demonstrates that the information relates to the pending case and (2) this office is provided with a representation from the law enforcement entity that the law enforcement entity wishes to withhold the information. You have submitted an affidavit from the Tarrant County District Attorney's Office objecting to the release of the requested information because it relates to an ongoing criminal prosecution. Based on this representation and our review of the submitted information, we conclude that release of the 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).

We note, however, that section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." Gov't Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle*. See 531 S.W.2d at 186-88. Basic information includes the identification and description of the complainant. See *id.*, 531 S.W.2d at 187; Open Records Decision No. 127 (1976). However, as the submitted information pertains to an alleged sex-related offense, certain basic information is excepted from disclosure under section 552.101 of the Government Code in conjunction with common-law privacy.

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 if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, this office has found that the identities of victims of sexual abuse or sex-related offenses are excepted from public disclosure under common-law privacy. See Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Accordingly, the city must withhold the information you have marked that identifies the victim of a sex-related offense under section 552.101 in conjunction with common-law privacy.

In summary, (1) with the exception of basic information, the city may withhold the submitted information under section 552.108(a)(1) of the Government Code; and (2) within the basic information, the city must withhold the victim's identifying information, which you have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The remaining basic information must be released to the requestor.

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.oag.state.tx.us/open/index_orl.php, 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Adam Leiber
Assistant Attorney General
Open Records Division

ACL/eeg

Ref: ID# 345176

Enc. Submitted documents

c: Requestor
(w/o enclosures)