



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 10, 2009

Mr. George E. Hyde  
Denton, Navarro, Rocha & Bernal  
2517 North Main Avenue  
San Antonio, Texas 78212

OR2009-09540

Dear Mr. Hyde:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 349174.

The City of Windcrest (the "city"), which you represent, received a request for the police report of a motorcycle chase and accident that occurred on April 22, 2009. The city asserts the information is excepted from disclosure under sections 552.101, 552.103, 552.108, 552.130, and 552.147 of the Government Code. We have considered the city's claimed exceptions to disclosure and have reviewed the submitted information.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, 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), .301(e)(1)(a); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). The city states the information it marked relates to a pending criminal case. Based upon this representation, we conclude release of the information the city marked 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). Thus, the city may withhold the information it marked under section 552.108(a)(1).

Next, the city marked the information it seeks to withhold under section 552.130. Section 552.130 excepts from disclosure information relating to a Texas motor vehicle title or registration. Thus, the city must withhold the Texas motor vehicle record information we marked under section 552.130.

Section 552.147 provides the social security number of a living person is excepted from disclosure. Therefore, the city may withhold the social security number it marked under section 552.147.<sup>1</sup>

Section 552.103 excepts from public disclosure information relating to litigation of a civil or criminal nature to which the state or a political subdivision is or may be a party. Gov't Code § 552.103. Although the city argues section 552.103 applies, the city failed to mark the information subject to this provision as required by section 552.301(e). *See id.* § 552.301(e) (agency must label information to which exception applies). Thus, the city may not withhold the information under section 552.103.

Section 552.101 excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 552.101. Section 552.101 encompasses the doctrine of common-law privacy. Common-law privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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. 540 S.W.2d at 683. After review of the information, we conclude none of it is highly intimate or embarrassing information. Thus, the city may not withhold the information under common-law privacy.

Lastly, you contend an accident report is confidential under section 550.065 of the Transportation Code. Section 552.101 also encompasses confidentiality statutes. Section 550.065(b) of the Transportation Code states except as provided by subsection (c), accident reports completed pursuant to chapter 550 of the Transportation Code are privileged and confidential. Transp. Code § 550.064(b). However, contrary to the city's contention, the submitted information does not include an accident report.

In summary, the city may withhold the information it marked under section 552.108(a)(1) and the social security number it marked under section 552.147. In addition, the city must

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<sup>1</sup>We note section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office.

withhold the Texas motor vehicle record information we marked under section 552.130. The city must release the remainder.

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](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,



Yen-Ha Le  
Assistant Attorney General  
Open Records Division

YHL/sdk

Ref: ID# 349174

Enc: Marked documents

c: Requestor  
(w/o enclosures)