



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 2, 2009

Ms. Helen Valkavich  
Assistant City Attorney  
City of San Antonio  
P.O. Box 839966  
San Antonio, Texas 78283-3966

OR2009-13900

Dear Ms. Valkavich:

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# 357162 (COSA File No. 09-0895).

The City of San Antonio (the "city") received five requests from the same requestor for various items of information pertaining to five named police officers. You state most of the responsive information has been released to the requestor. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have submitted information that does not pertain to the officers named in the request. Accordingly, this information, which we have marked, is not responsive to the present request. Additionally, the requestor has specifically excluded officers' home addresses, social security numbers, telephone numbers, or personal family member information from his request. Thus, this information is also not responsive to the request. The city need not release non-responsive information in response to this request and this ruling will not address it.

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. This section encompasses information made confidential by other

statutes. You seek to withhold some of the submitted information pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Section 550.065(b) of the Transportation Code states that, except as provided by section 550.065(c), accident reports are privileged and confidential. *Id.* § 550.065(b). Section 550.065(c)(4) provides for the release of an accident report to a person who provides at least two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). In this instance, the requestor has not provided two of the three items of information specified by section 550.065(c)(4). We note some of the information you have marked does not consist of accident reports completed pursuant to chapter 550 of the Transportation Code. Therefore, the city must only withhold the submitted ST-3 accident reports we have marked under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.<sup>1</sup>

Section 552.101 also encompasses the doctrine of common-law privacy, which protects information that (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *Id.* at 681-82. The type of information considered intimate or 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 Open Records Decision No. 393 (1983), this office concluded information that either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld under common-law privacy. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also Morales v. Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information). You state the remaining information contains an alleged sexual assault victim's identifying information. Therefore, the city must withhold the alleged sexual assault victim's identifying information you have marked under section 552.101 in conjunction with common-law privacy.

You seek to withhold portions of the remaining information under section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we find the city must withhold the information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code.

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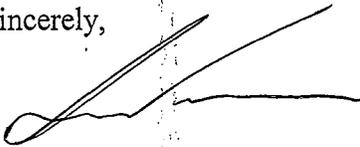
<sup>1</sup>As our ruling is dispositive for this information, we do not address your argument against disclosure of portions of this information.

In summary, the city must withhold (1) the ST-3 reports we have marked under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code, (2) the alleged sexual assault victim's identifying information you have marked under section 552.101 in conjunction with common-law privacy, and (3) the Texas motor vehicle record information you have marked under section 552.130 of the Government Code. The remaining information must be released.

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, toll free, at (888) 672-6787.

Sincerely,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 357162

Enc. Submitted documents

c: Requestor  
(w/o enclosures)