



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 21, 2009

Mr. Robert R. Ray  
Assistant City Attorney  
City of Longview  
P.O. Box 1952  
Longview, Texas 75606

OR2009-14938

Dear Mr. Ray:

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# 358964.

The City of Longview (the "city") received a request for police report number 09-15861. You state you released all responsive information not submitted for our review. You claim the information you marked 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 exceptions you claim and reviewed the submitted report.

You claim the information you marked is excepted by section 552.108(a)(1) of the Government Code, which 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 must reasonably explain how and why 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). You inform this office the submitted report relates to an ongoing investigation by the city's police department and possible prosecution by the local district attorney's office. Based on your representations and our review, we determine release of the information you marked in the submitted report would interfere with the detection, investigation, or prosecution of this 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).<sup>1</sup>

The remaining information includes a Texas driver's license number and a state identification number you marked under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating to a driver's license, permit, or personal identification document issued by an agency of this state. *See* Gov't Code § 552.130(a)(1), (3). Thus, pursuant to section 552.130, the city must withhold the driver's license number and state identification number you marked in the submitted report.

The submitted report also contains certain information subject to section 552.101 of the Government Code, which excepts from disclosure "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. 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). The type 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. Upon review, we marked the remaining information in the submitted report that is intimate and embarrassing and of no legitimate public interest. The department must withhold this marked information under section 552.101 in conjunction with common-law privacy.

In summary, the city may withhold the information you marked under section 552.108(a)(1) of the Government Code. They city must withhold the Texas driver's license number and state identification number you marked under section 552.130 of the Government Code, as well as the information we marked under section 552.101 in conjunction with common-law privacy. The remaining information must be released.<sup>2</sup>

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining arguments against its disclosure.

<sup>2</sup>You marked a social security number in the remaining information. 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 under the Act. Gov't Code § 552.147.

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,

A handwritten signature in black ink, appearing to read "Bob Davis", written in a cursive style.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 358964

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)