



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

August 4, 2015

Ms. Lizbeth Islas Plaster
City Attorney
City of Lewisville
P.O. Box 299002
Lewisville, Texas 75029-9002

OR2015-16059

Dear Ms. Plaster:

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# 574097.

The City of Lewisville (the "city") received a request for information pertaining to three specified reports. You state the city will release some information. You claim some of the submitted information is excepted from disclosure under sections 552.108 and 552.130 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You state Exhibit C-1 pertains to a case that was closed with no charges. Based on this representation and our review, we agree section 552.108(a)(2) is applicable to Exhibit C-1. Accordingly, the city may withhold the information you seek to withhold in Exhibit C-1 under section 552.108(a)(2). You also assert Exhibits C-2 and C-3 relate to

¹Although you do not raise section 552.130 of the Government Code in your brief, we understand you to claim this exception based on your markings in the submitted information.

investigations that have been placed in “suspended” status and could be reopened. Based on your representation and our review of the information at issue, we find you have failed to demonstrate how Exhibits C-2 and C-3 pertain to criminal cases that concluded in a final result other than conviction or deferred adjudication. Therefore, we find you have failed to demonstrate the applicability of section 552.108(a)(2) to Exhibits C-2 and C-3, and the city may not withhold Exhibits C-2 and C-3 on that basis. *See id.* § 552.301(e)(1)(A) (governmental body must explain how claimed exception to disclosure applies).

Section 552.101 of the Government Code excepts “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.”² Gov’t Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See* Open Records Decision No. 455 (1987). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See* Gov’t Code § 552.130. Accordingly, the city must withhold the motor vehicle record information you marked, and the additional information we marked, under section 552.130 of the Government Code.

In summary, the city may withhold the information you seek to withhold in Exhibit C-1 under section 552.108(a)(2) of the Government Code. The city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information you marked, and the

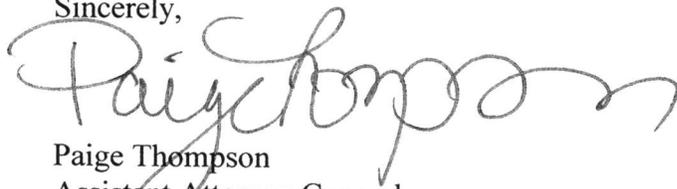
²The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

additional information we marked, under section 552.130 of the Government Code. The city must release the remaining information.³

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 574097

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note the requestor has a special right of access to some of the information being released in this instance. See Gov't Code § 552.023(a) (governmental body may not deny access to person to whom information relates, or that party's representative, solely on grounds that information is considered confidential by privacy principles).