



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 14, 2009

Ms. Jerris Penrod Mapes
Assistant City Attorney
City of Killeen
402 North Second Street
Killeen, Texas 76541

OR2009-04881

Dear Ms. Mapes:

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# 339786 (Killeen ID# W000504).

The City of Killeen (the "city") received a request for copies of police reports for three specified dates involving a named individual at the requestor's address and for a copy of a criminal trespass warning given to the named individual. You state that you have released the criminal trespass warning and basic information from one of the reports. You claim that portions of the remaining requested information are 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.¹

Section 552.108(a)(1) of the Government Code 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

¹We assume that the representative sample of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

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 state that the report 09-000967 relates to an ongoing criminal investigation and that release of the report would interfere with the investigation. Based on this representation and our review, we conclude that release of this 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Accordingly, with the exception of basic information, which you have released, the city may withhold report number 09-000967 under section 552.108(a)(1) of the Government Code.

You claim that portions of the report 08-014400 are made confidential by the common-law right of privacy. Section 552.101 of the Government Code 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, 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office has found that the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps); personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990); and identities of victims of sexual abuse, *see* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). Upon review of report 08-014400, we conclude that the city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, none of the remaining information is highly intimate or embarrassing or of no legitimate concern to the public. Therefore, the city may not withhold any of the remaining information under section 552.101 on the basis of common-law privacy.

We note that portions of the remaining submitted information are subject to section 552.130 of the Government Code, which provides that 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.² Gov't Code § 552.130(a)(1), (2). Therefore, the

²The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision nos. 481 (1987), 480 (1987), 470 (1987).

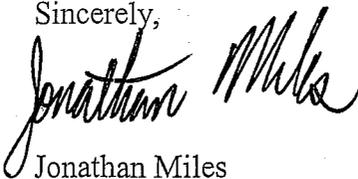
city must withhold the Texas motor vehicle information we have marked under section 552.130.

In summary, with the exception of basic information, the city may withhold report 09-000967 under section 552.108(a)(1) of the Government Code. The city must withhold the information we have marked in report 08-014400 under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle information we have marked under section 552.130 of the Government Code. The remaining information must be released.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.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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/cc

Ref: ID# 339786

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³We note that the submitted information contains a social security number. Section 552.147 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(b).