



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 22, 2012

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

OR2012-16848

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# 468526.

The Longview Police Department (the "department") received a request for any offense report, recorded statement, and any other documents relating to officers' investigations of any complaints at a specified address for a specified time period. You state some information has been released. You claim the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

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 must reasonably explain how release of the information at issue would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the information you have marked pertains to an active criminal investigation or prosecution. Based on your representation and our review, we conclude release of the marked information would interfere with the detection, investigation, or prosecution of a crime. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975) (court describes law

enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may withhold the marked information under section 552.108(a)(1) of the Government Code.

Next, you argue the remaining information is protected by section 552.101 of the Government Code, which excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses 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. 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.

Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated that the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. You seek to withhold the remaining call sheet in its entirety. However, you have not demonstrated, nor does it otherwise appear, the request in this instance presents a situation in which the information at issue must be withheld in its entirety on the basis of common-law privacy. Accordingly, the department may not withhold the call sheet at issue in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. However, we note portions of the call sheet at issue, which we have marked, are highly intimate or embarrassing and of no legitimate public concern. Accordingly, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses section 771.061 of the Health and Safety Code, which makes confidential "[i]nformation that a service provider of telecommunications service is required to furnish to a governmental entity in providing computerized 9-1-1 service" and "[i]nformation that is contained in an address database maintained by a governmental entity or a third party used in providing computerized 9-1-1 service." Health & Safety Code § 771.061(a). You state portions of the remaining information originated from an address database that is maintained by a third party for the department. You further state this information was "used and maintained for the purpose of providing computerized 9-1-1 service." You assert this information is "information that a provider of wireless telecommunications service is required to furnish to the city in providing computerized 9-1-1 service." Based on your representations, we conclude the information

you have marked is confidential under section 771.061 and must be withheld under section 552.101 of the Government Code, to the extent such information either originated from the department's 9-1-1 address database or was required to be furnished to the department by a telecommunications service provider. *See* Open Records Decision No. 661 at 1-2 (1999).

In summary, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 771.061 of the Health and Safety Code, to the extent such information either originated from the department's 9-1-1 address database or was required to be furnished to the department by a telecommunications service provider. 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,



Nneka Kanu  
Assistant Attorney General  
Open Records Division

NK/bhf

Ref: ID# 468526

Enc. Submitted documents

c: Requestor  
(w/o enclosures)