



Office of the Attorney General  
State of Texas

DAN MORALES  
ATTORNEY GENERAL

September 2, 1998

Ms. Deane Bostick-Martin  
Records System Supervisor  
City of Lubbock  
P.O. Box 2000  
Lubbock, Texas 79457

OR98-2104

Dear Ms. Bostick-Martin:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 117841.

The City of Lubbock (the "city") received a request for "any and all police reports involving the Yowells and/or Viola Davis with Andrea Carol Yowell as Power of Attorney." You indicate that the city has provided the requestor with one offense report that resulted in a conviction. You contend that the remaining offense reports, with the exception of front page offense report information, are excepted from disclosure under sections 552.103 and 552.108 of the Government Code. You note that the request also implicates the individual right to privacy. We have considered the exceptions you claim and have reviewed the documents at issue.

Section 552.101 of the Government Code excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. For information to be protected from public disclosure by the common-law right of privacy under section 552.101, the information must meet the criteria set out in *Industrial Foundation of the South v. Texas Industrial Accident Board*, 540 S.W.2d 668 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). In *Industrial Foundation*, the Texas Supreme Court stated that information is excepted from disclosure if (1) the information contains highly intimate or embarrassing facts the release of which would be highly objectionable to a reasonable person and (2) the information is not of legitimate concern to the public. 540 S.W.2d at 685. In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the U.S. Supreme Court concluded that where an individual's criminal history is compiled or summarized by a governmental entity, the information takes on a character that implicates individual's right of privacy in a manner that the same individual records in an uncompiled state do not. We note that the right of privacy lapses upon the death of an individual. Open Records Decision Nos. 272 (1981), 216 (1978).

The requestor is in essence asking the city to compile the criminal histories of all members of the Yowell family and of Viola Davis. Two members of the Yowell family are deceased and, therefore, their rights to privacy have lapsed. However, to the extent that the

city has offense reports listing any living members of the Yowell family or Viola Davis as suspects, the city must withhold such offense reports from disclosure in their entirety under section 552.101 in conjunction with the common-law right to privacy.

We will address your section 552.108 claim for the remaining offense reports. Section 552.108(a) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime; [or] (2) it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication.” You indicate that the remaining offense reports relate to pending criminal investigations. Based upon this representation, we conclude that the release of the remaining offense reports 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. 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).

We note, however, that information normally found on the front page of an offense report is generally considered public. See generally Gov’t Code § 552.108(c); *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); Open Records Decision No. 127 (1976). Thus, you must release the type of information that is considered to be front page offense report information, even if this information is not actually located on the front page of the offense report. You may withhold all other information in the remaining offense reports from disclosure under section 552.108(a)(1).<sup>1</sup>

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Yours very truly,



Karen E. Hattaway  
Assistant Attorney General  
Open Records Division

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<sup>1</sup>Because we are able to resolve this matter under sections 552.101 and 552.108, we do not address your section 552.103 claim. We note that section 552.103 generally does except front page offense report information from disclosure. See Open Records Decision No. 597 (1991).

KEH/mjc

Ref: ID# 117841

Enclosures: Submitted documents

cc: Mr. Gary R. Terrell  
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(w/o enclosures)