



June 9, 1999

Lieutenant Terry Lichtie  
Amarillo Police Department  
City of Amarillo  
200 East 3<sup>rd</sup>  
Amarillo, Texas 79101-1514

OR99-1609

Dear Lieutenant Lichtie:

You have asked whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126165.

The Amarillo Police Department (the "department") received a request for all records in which a named individual was a suspect, witness, complainant, or was incarcerated. You assert that certain records are protected from disclosure under section 552.108(a)(2) of the Government Code. We note initially that a request for a governmental body to compile all records that name an individual as a suspect or arrestee actually constitutes a request for criminal history record information ("CHRI") concerning that individual. Such compilations of CHRI are generally protected from disclosure under the common-law privacy aspect of section 552.101 of the Government Code. 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. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977).

In *United States Department of Justice v. Reporters Committee For Freedom of the Press*, 489 U.S. 749 (1989), the United States Supreme Court concluded that where an individual's CHRI is compiled or summarized by a governmental entity, the information takes on a character that implicates an individual's right of privacy in a manner that the same individual records in an uncompiled state do not. Based on *Reporters Committee*, this office has concluded that a request for all law enforcement records naming a specified individual as a suspect or arrestee implicates that individual's common-law privacy rights. Thus, the department may not provide any information concerning whether the named individual has ever been incarcerated, arrested, or considered a suspect.

You assert that records submitted to this office which show the named individual as a witness or complainant are protected from disclosure under section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. We agree that you have shown the applicability of section 552.108(a)(2) to these records, except for the front page information. Section 552.108(c) provides that basic offense report information is not protected from disclosure under section 552.108. Basic information is the type of information that is generally included on the front page of an offense report, including a detailed description of the incident. *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177, 186-87 (Tex. Civ. App.--Houston [15th Dist.] 1975), *writ ref'd n.r.e. per curiam*, S.W.2d 559 (Tex. 1976); Open Records Decision No. 127 (1976). Thus, the front page information of the records that show the named individual as a witness or complainant must be released, but the remaining information in these reports may be withheld from disclosure under section 552.108(a)(2).

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.

Sincerely,



Ruth H. Soucy  
Assistant Attorney General  
Open Records Division

RHS/eaf

Ref: ID# 126150

encl. Submitted documents

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