



May 13, 2002

Ms. Karen Saldaña
Records Clerk
Saginaw Police Department
404 South Saginaw Boulevard
Saginaw, Texas 76179

OR2002-2508

Dear Ms. Saldaña:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 162770.

The Saginaw Police Department (the “department”) received a request for all dispatch and related reports pertaining to a specified address. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you raise and have reviewed the information you submitted.¹

Section 552.101 of the Government Code excepts from disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” This exception encompasses the common-law right to privacy. Common-law privacy protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, *and* (2) of no legitimate public interest. *See Industrial Found. v. Texas Ind. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). When a law enforcement agency is asked to compile criminal history information regarding a particular individual, the compiled information takes on a character that implicates the individual’s right to privacy in a manner that the same information in an uncompiled state does not. *See United States Dep’t of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989); *see also* Open Records Decision No. 616 at 2-3 (1993).

¹This letter ruling assumes that the submitted samples of requested information are truly representative of the responsive information as a whole. This ruling neither reaches nor authorizes the department to withhold any responsive information that is substantially different from the submitted information. *See* Gov’t Code § 552.301(e)(1)(D); Open Records Decision Nos. 499 at 6 (1988), 497 at 4 (1988).

The department contends that the requestor is seeking a compilation of criminal history on a specific person or location. We note, however, that this request is for information relating to a specific address, rather than to any particular person. Therefore, this request does not implicate any person's right to privacy under *Reporters Committee*.

The department also claims that unspecified witness information in report no. 00024992 is private under section 552.101. However, the city has not identified any information in that report that is either intimate or embarrassing or not a matter of legitimate public interest. *See Industrial Found. v. Texas Ind. Accident Bd.*, 540 S.W.2d at 685; *see also* Open Records Decision No. 518 at 4 (1989) (public has legitimate interest in knowing about criminal offenses). We therefore conclude that none of the information contained in report no. 00024992 is excepted from disclosure under section 552.101 in conjunction with common-law privacy.

We note, however, that report no. 00024992 contains social security numbers. A social security number may be confidential under section 552.101 in conjunction with 1990 amendments to the federal Social Security Act, 42 U.S.C. § 405(c)(2)(C)(viii)(I), if the social security number was obtained or is maintained by a governmental body pursuant to any provision of law enacted on or after October 1, 1990. *See* Open Records Decision No. 622 at 2-4 (1994). It is not apparent to this office that the department either obtained or maintains any of the social security numbers in report no. 00024992 pursuant to any provision of law enacted on or after October 1, 1990. You have cited no law, nor are we aware of any law, enacted on or after October 1, 1990, that authorizes the department to obtain or maintain a social security number. Therefore, we have no basis for concluding that these social security numbers were obtained or are maintained pursuant to such a law and are therefore confidential under section 405(c)(2)(C)(viii)(I) of the federal law. We caution the department, however, that section 552.352 of the Government Code imposes criminal penalties for the release of confidential information. Therefore, prior to releasing a social security number to the public, the department should ensure that it was not obtained and is not maintained pursuant to any provision of law enacted on or after October 1, 1990.

Report no.00024992 also contains Texas driver's license and license plate numbers. Section 552.130 of the Government Code provides in part:

(a) Information is excepted from [required public disclosure] if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a)(1)-(2). The department must withhold the Texas driver's license and license plate numbers in report no. 00024992 under section 552.130.

The department also claims that two of the requested police reports are confidential under section 58.007 of the Family Code. Section 552.101 of the Government Code also encompasses information that another statute makes confidential. Section 58.007 provides in part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapter B.

Fam. Code § 58.007(c). Section 58.007(c) is applicable to records of juvenile conduct that occurred on or after September 1, 1997. *See* Act of June 2, 1997, 75th Leg., R.S., ch. 1086, §§ 20, 55(a), 1997 Tex. Gen. Laws 4179, 4187, 4199; Open Records Decision No. 644 (1996). The juvenile must have been at least 10 years old and less than 17 years of age when the conduct occurred. *See* Fam. Code § 51.02(2) (defining “child” for purposes of title 3 of Family Code). We agree that report nos. 01010542 and 01011639 are confidential under section 58.007(c) of the Family Code. The department must withhold those reports in their entirety under section 552.101 of the Government Code.

The department also raises section 552.108 of the Government Code with respect to four of the submitted police reports. Section 552.108(a)(2) excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . 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[.]” A governmental body that raises section 552.108 must reasonably explain, if the responsive information does not provide an explanation on its face, how and why section 552.108 is applicable to the information. *See* Gov’t Code § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977); Open Records Decision No. 434 at 2-3 (1986).

The department states that four of the submitted reports relate to concluded cases that did not result in a conviction or deferred adjudication. Based on this representation, we find that section 552.108(a)(2) is applicable to the reports that relate to case nos. 01001055, 01008569, 01008518, and 00024272.

Section 552.108 does not except from disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Section 552.108(c) refers to the basic front-page information held to be public in *Houston Chronicle Publishing 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). The department must release front-page information with respect to report nos. 01001055, 01008569, 01008518, and 00024272, including a detailed description of the offense, even if that information does not literally appear on the front page of the report. See *Houston Chronicle*, 531 S.W.2d at 186-87; Open Records Decision No. 127 at 3-4 (1976) (summarizing the types of information deemed public by *Houston Chronicle*). The rest of the information in those four reports is excepted from disclosure under section 552.108(a)(2).

In summary, report nos. 01010542 and 01011639 are confidential under section 58.007 of the Family Code. The department must withhold those reports in their entirety under section 552.101 of the Government Code. The department may withhold report nos. 01001055, 01008569, 01008518, and 00024272 under section 552.108(a)(2), except for the basic information in those reports that the department must release under section 552.108(c). Report no. 00024992 contains social security numbers that may be excepted from disclosure under section 552.101 of the Government Code in conjunction with federal law. Report no. 00024992 also contains Texas driver’s license and license plate numbers that the department must withhold under section 552.130. The department must release the rest of the requested information.

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov’t Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, within 10 calendar days of this ruling, the governmental body will do one of the following three things: 1) release the public records; 2) notify the requestor of the exact day, time, and place that copies of the records will be provided or that the records can be inspected; or 3) notify the requestor of the governmental body’s intent to challenge this letter ruling in court. If the governmental body

fails to do one of these three things within 10 calendar days of this ruling, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at 877/673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Department of Public Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.--Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Texas Building and Procurement Commission at 512/475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. We note that a third party may challenge this ruling by filing suit seeking to withhold information from a requestor. Gov't Code § 552.325. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III", with a horizontal line extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/sdk

Ref: ID# 162770

Enc: Submitted documents

c: Ms. Julie C. Woods
2333 Timberview Lane
Arlington, Texas 76014
(w/o enclosures)