



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 15, 2007

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2007-15087

Dear Ms. McClellan:

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# 294820.

The Dallas Police Department (the "department") received a request for any information pertaining to two named individuals and two given addresses from specified periods of time.¹ 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 claim and reviewed the submitted information.

Initially, we note that the submitted information contains police reports and call sheets not pertaining to either of the named individuals or given addresses. Thus we find that this information, which we have marked, is not responsive to this request. Because this information is not responsive, it need not be released in response to this request, and we do not address your arguments against its release in this ruling.

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

¹We note that much of the written request is illegible. Our ruling is based solely on the portions we can read and what the department has identified as being responsive.

Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which 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. *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. A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *Cf. United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749, 764 (1989) (when considering prong regarding individual's privacy interest, court recognized distinction between public records found in courthouse files and local police stations and compiled summary of information and noted that individual has significant privacy interest in compilation of one's criminal history). Further, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In this instance, the requestor seeks, in part, unspecified law enforcement records involving two named individuals. We agree that the portion of the request pertaining to the two named individuals, in part, requires the department to compile each person's criminal history. Therefore, to the extent that the department maintains records that depict either of the named individuals as a suspect, arrested person, or criminal defendant, the department must withhold such information from the requestor under section 552.101 in conjunction with common-law privacy. We note that you have submitted reports responsive to the portion of the request seeking information pertaining to two specified addresses wherein neither of the named individuals is depicted as a suspect, arrestee, or criminal defendant. This information is not protected by common-law privacy and may not be withheld under section 552.101 on that basis.²

However, we note that portions of these remaining reports are subject to chapter 772 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communications districts. Section 772.318 of the Health and Safety Code is applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). This section makes the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. We understand that the City of Dallas is part of an emergency communication district established under section 772.318 of the Health and Safety Code. Therefore, the originating telephone numbers and addresses of the 9-1-1 callers we have marked on the 9-1-1 call sheets are confidential under section 772.318 of the Health and Safety Code and must be withheld from disclosure under section 552.101 of the Government Code.

²As our ruling on this issue is dispositive, we need not address your argument against disclosure under section 552.108 of the Government Code.

In summary, to the extent the department maintains records depicting either of the named individuals as a suspect, arrested person, or a defendant, the department must withhold this information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the originating telephone numbers and addresses of the 9-1-1 calls we have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. As you raise no further exceptions, the remaining information must be released to the requestor.

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, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, 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 Dep't of Pub. 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 Office of the Attorney General 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. 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 "MA Akin", with a long horizontal flourish extending to the right.

M. Alan Akin
Assistant Attorney General
Open Records Division

MAA/mcf

Ref: ID# 294820

Enc. Submitted documents

c: Mrs. Sharon Garza
Uncle Pete & Son Tire Shop
4015 Pampas Street
Dallas, Texas 75211
(w/o enclosures)