



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

February 9, 2009

Mr. Scott A. Kelly  
Deputy General Counsel  
The Texas A&M University System  
A&M System Building, Suite 2079  
200 Technology Way  
College Station, Texas 77845-3424

OR2009-01672

Dear Mr. Kelly:

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# 334347.

Texas A&M University (the "university") received two requests from the same requestor for information pertaining to two specified cases and a specified individual. You claim that the submitted information is excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered the claimed exceptions and reviewed the submitted information.

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 Code § 552.101. This section encompasses the doctrine of common-law privacy, which protects information that (1) contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person and (2) 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. U.S. 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). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. The present request, in part, seeks unspecified law enforcement records pertaining to a specified individual. This portion of the request requires the university to compile the specified individual's criminal history. We find this request for unspecified law enforcement records implicates this individual's right to privacy. Therefore, to the extent the university maintains law enforcement records, other than those specified in the request, depicting the individual at issue as a suspect, arrestee, or criminal defendant, the university must withhold such information under section 552.101 in conjunction with common-law privacy.

You acknowledge that the request also seeks specified reports which are not considered part of a compilation of the individual's criminal history. Thus, we will address the exceptions you claim for this information.

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." Generally, a governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See* Gov't Code §§ 552.108(a)(1), 301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert that information pertaining to case numbers 08-04027 and 08-04036 relates to an ongoing investigation. You further provide documentation demonstrating that the Brazos County Attorney's Office objects to release of the information at issue because it relates to a pending criminal prosecution. Based upon these representations, we conclude that the release of the information at issue 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).

However, 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). Basic information refers to the information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 185-86. Thus, with the exception of the basic front page offense and arrest information, you may withhold case numbers 08-04027 and 08-04036 pursuant to section 552.108(a)(1) of the Government Code.

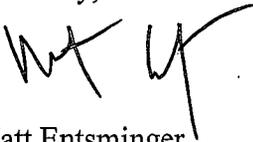
In summary, to the extent the university maintains unspecified law enforcement records depicting the specified individual as a suspect, arrestee, or criminal defendant, the university must withhold any such information under section 552.101 of the Government Code in

conjunction with common-law privacy. With the exception of basic information, the university may withhold case numbers 08-04027 and 08-04036 pursuant to section 552.108(a)(1) of the Government Code.<sup>1</sup>

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 at (512) 475-2497.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/jb

Ref: ID# 334347

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining arguments against disclosure, except to note that basic information held to be public in *Houston Chronicle* is generally not excepted from public disclosure under section 552.103 of the Government Code. Open Records Decision No. 597 (1991).