



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 8, 2010

Ms. Susan Camp-Lee
Attorneys for the City of Round Rock
Sheets & Crossfield, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2010-10075

Dear Ms. Camp-Lee:

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# 385774.

The Round Rock Police Department (the "department"), which you represent, received a request for the following: (1) all dispatch logs for calls made during a specified time period; (2) police reports pertaining to calls made to a specified address on a specified date, the names and badge numbers of the officers responding to those calls, and any recordings of transmissions between the responding officers; (3) information pertaining to 9-1-1 hang up calls made during a specified time period; and (4) any records of any inquiries made on a named individual.¹ You state you will release some information to the requestor. We note you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code in accordance with Open Records Decision No. 684 (2009).² You

¹You inform us, and provide documentation showing, that you contacted the requestor who clarified his request. See Gov't Code § 552.222(b) (governmental body may communicate with requestor for purpose of clarifying or narrowing request for information).

²This office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies that authorizes withholding ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity

claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions you claim 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 information protected by other statutes, such as section 58.007(c) of the Family Code. Juvenile law enforcement records relating to delinquent conduct or conduct indicating a need for supervision that occurred on or after September 1, 1997, are confidential under section 58.007. *See* Fam. Code § 58.007(c). The relevant language of section 58.007 reads as follows:

(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 Subchapters B, D, and E.

Id. § 58.007(c). For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). You assert the information you have marked in Exhibit E involves juveniles engaged in delinquent conduct or conduct in need of supervision. *See* Fam. Code § 51.03 (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of Fam. Code § 58.007). Upon review, we agree a portion of Exhibit E, which we have marked, is subject to section 58.007 of the Family Code. It appears none of the exceptions in section 58.007 apply; therefore, the information we have marked in Exhibit E is confidential under section 58.007(c) of the Family Code and must be withheld under section 552.101 of the Government Code.³ We note, however, the remaining information at issue does not identify any juveniles engaged

of requesting an attorney general decision.

³As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

in delinquent conduct or conduct indicating a need for supervision as defined by the Family Code. Thus, we find you have failed to demonstrate how the remaining information you have marked in Exhibit E is subject to section 58.007 of the Family Code, and it may not be withheld under section 552.101 of the Government Code on that basis.

Section 552.101 also encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. The types of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See id.* at 683. This office has found the following types of information are excepted from required public disclosure under common-law privacy: some kinds of medical information or information indicating disabilities or specific illnesses, *see* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps) and personal financial information not relating to the financial transaction between an individual and a governmental body, *see* Open Records Decision Nos. 600 (1992), 545 (1990). 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) (finding significant privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, that records relating to routine traffic violations are not considered criminal history record information. *Cf. Gov't Code* § 411.082(2)(B) (criminal history record information does not include driving record information). Upon review of the remaining information in Exhibit E, we agree the department must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

You raise section 552.108 of the Government Code for the information in Exhibit D. Section 552.108(a)(1) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]" *Gov't Code* § 552.108(a)(1). A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information at issue. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert Exhibit D relates to a pending criminal case.

Based on your representation and our review, we conclude that section 552.108(a)(1) is applicable to Exhibit D. 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).

As you acknowledge, 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 186-87; Open Records Decision No. 127 at 3-4 (1976) (listing types of information deemed public by *Houston Chronicle*). Therefore, with the exception of basic information, which you state you will release, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code.

Next, you claim some of the remaining information in Exhibit E, which you have marked in yellow, is confidential under section 552.130 of the Government Code. Section 552.130 provides that information relating to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(1), (2). Therefore, the department must withhold the Texas motor vehicle record information you have marked in yellow under section 552.130 of the Government Code. We have marked additional information in Exhibit E that must be withheld under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked in Exhibit E under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The department must withhold the information you have marked, and the additional information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. Except for basic information, the department may withhold Exhibit D under section 552.108 of the Government Code. The department must withhold the information you have marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code. The remaining information must be released to the requestor.

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, 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, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/tp

Ref: ID# 385774

Enc. Submitted documents

c: Requestor
(w/o enclosures)