



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 9, 2010

Ms. Jessica Sangsvang  
Assistant City Attorney  
The City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Fort Worth, Texas 76102

OR2010-10146

Dear Ms. Sangsvang:

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# 385991 (Fort Worth PIR Nos. W000551 and W000553).

The Fort Worth Police Department (the "department") received two requests from the same requestor for all calls for service for thirteen different phone numbers on specified dates and all incident reports that may have resulted from the calls. You state you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to previous determinations issued to the City of Fort Worth in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). *See* Open Records Decision No. 673 at 7-8 (2001) (previous determination). You state the department has released some of the responsive records. You claim that 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.

You inform us that some of the requested information was the subject of previous requests for information, in response to which this office issued Open Records Letter Nos. 2009-17735 (2009) and 2010-05563 (2010). In each of these previous rulings, we concluded that, with the exception of basic information, report 09-128204 may be withheld under section 552.108(a)(1) of the Government Code. As there has been no change in the law, facts, and circumstances on which the previous rulings are based, the department may dispose of the requested information in accordance with Open Records Letter Nos. 2009-17735 and 2010-05563. *See* Gov't Code § 552.301(a); Open Records Decision

No. 673 at 6-7 (listing elements of first type of previous determination under section 552.301(a)). We will address your arguments for the submitted information that was not the subject of the previous rulings.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. Section 552.101 encompasses the common-law right of privacy, which protects information if it (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. The types of information considered intimate and 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. *Id.* at 683. A compilation of an individual's criminal history is also 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. You assert that the present request requires the department to compile the criminal history of a specified individual. After reviewing the request and the submitted information, however, we find the requestor is seeking specified calls for service and the related incident reports. Accordingly, we find this request does not require the department to compile unspecified law enforcement records of any named individual; thus, the request does not implicate a specified individual's common-law right to privacy. Thus, the department may not withhold the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 also encompasses section 261.201 of the Family Code, which provides as follows:

(a) Except as provided by Section 261.203, the following information is confidential, is not subject to public release under Chapter 552, Government Code, and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

Fam. Code § 261.201(a). Upon review, we find that report 08-48382 and the corresponding call-for-service were used or developed in an investigation into alleged child abuse under chapter 261. *See id.* § 261.001(1) (defining “abuse” for purposes of Family Code ch. 261); *see also* Penal Code § 22.04(c) (defining “child” for purposes of injury to a child as a person 14 years of age or younger). As there is no indication that the department has adopted a rule that governs the release of this type of information, we assume that no such rule exists. Given that assumption, we conclude that the department must withhold report 08-48382 and the corresponding call-for-service, which you have marked, under section 552.101 of the Government Code in conjunction with section 261.201(a) of the Family Code.<sup>1</sup>

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 claiming section 552.108(a)(1) must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* §§ 552.108(a)(1), .301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You inform us, and submit documentation stating, that the remaining information you have marked relates to criminal cases currently pending prosecution with the Tarrant County District Attorney’s Office. You also inform us that the release of these reports 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 [14<sup>th</sup> 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). Accordingly, we find section 552.108(a)(1) is applicable to the information you have marked.

However, section 552.108 does not except from required public disclosure “basic information about an arrested person, an arrest, or a crime.” Gov’t Code § 552.108(c). Thus, the department must release the types of basic information listed in *Houston Chronicle*. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the

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<sup>1</sup>As our ruling for this information is dispositive, we do not address your remaining arguments against disclosure.

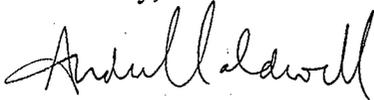
exception of basic information, the department may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.<sup>2</sup>

In summary, the department may continue to rely on Open Records Letter Nos. 2009-17735 and 2010-05563 for the information that was at issue in the prior requests. The department must withhold report 08-48382 and the corresponding call-for-service under section 552.101 of the Government Code in conjunction with section 261.201 of the Family Code. With the exception of basic information, the department may withhold the remaining information you have marked under section 552.108(a)(1) of the Government Code.

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, toll free at (888) 672-6787.

Sincerely,



Andrea L. Caldwell  
Assistant Attorney General  
Open Records Division

ALC/eeg

Ref: ID# 385991

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As our ruling is dispositive for this information, we do not address your remaining arguments against disclosure.