



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 27, 2010

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

OR2010-11195

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# 389189.

The Round Rock Police Department (the "department"), which you represent, received a request for records pertaining to a named individual. You claim the submitted 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.

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. Section 552.101 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 requires the department to compile unspecified law enforcement records concerning a named individual. We find this request for unspecified law enforcement records implicates the named individual's right to privacy.

We note, however, the requestor is a parent of the minor child whose criminal history is at issue and, therefore, has a special right of access to information that would ordinarily be withheld to protect the minor's privacy interests. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person or person's representative to whom information relates on grounds that information is considered confidential under privacy principles). Accordingly, the submitted information may not be withheld from this requestor under section 552.101 in conjunction with common-law privacy.

Section 552.101 also encompasses section 58.007 of the Family Code, which makes confidential juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997. The relevant language of section 58.007 provides:

(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.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

...

(j) Before a child or a child's parent or guardian may inspect or copy a record or file concerning the child under Subsection (e), the custodian of the record or file shall redact:

(1) any personally identifiable information about a juvenile suspect, offender, victim, or witness who is not the child[.]

Fam. Code § 58.007(c), (e), (j). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the reported conduct. *See id.* § 51.02(2)(A). You assert submitted Exhibits B and C are subject to section 58.007(c). Upon review, we agree the information at issue consists of law enforcement records relating to juveniles engaged in delinquent conduct or conduct indicating a need for supervision. *See id.* § 51.03(a), (b) (defining "delinquent conduct" and "conduct indicating a need for supervision" for purposes of section 58.007). Accordingly, Exhibits B and C are within the scope of section 58.007(c).

However, the subject child or his parent may inspect or copy any law enforcement records concerning the child under section 58.007(e). *Id.* § 58.007(e). Thus, section 58.007(c) may not be used to withhold the information at issue from this requestor. However, section 58.007(j)(1) states any personally identifiable information concerning other juvenile offenders, victims, or witnesses must be redacted. *Id.* § 58.007(j)(1). Accordingly, the department must withhold the information we have marked in Exhibits B and C under section 552.101 in conjunction with section 58.007(j)(1) of the Family Code.

You assert Exhibit D is excepted from disclosure under section 552.108(a)(1) of the Government Code. 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 must reasonably explain how and why section 552.108 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 currently pending criminal investigation. Based on your representation, we conclude the release of this information 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). Thus, section 552.108(a)(1) is generally applicable to Exhibit D.

We note 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 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be

basic information). Therefore, with the exception of basic information, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code.

In summary, the department must withhold the information we marked in Exhibits B and C under section 552.101 of the Government Code in conjunction with section 58.007(j)(1) of the Family Code. Apart from basic information, the department may withhold Exhibit D under section 552.108(a)(1) of the Government Code. The remaining information must be released to this requestor.<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, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger  
Assistant Attorney General  
Open Records Division

MRE/sdk

Ref: ID# 389189

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

---

<sup>1</sup>Should the department receive another request for these same records from a person who would not have a right of access to the subject individual's private information, the department should resubmit these records and request another decision. See Gov't Code §§ 552.301(a), .302.