



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2010

Ms. Bonnie Lee Goldstein  
Bonnie Lee Goldstein P.C.  
P.O. Box 140940  
Dallas, Texas 75214-0940

OR2010-16853

Dear Ms. Goldstein:

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# 400664.

The City of Princeton and the Princeton Police Department (collectively, the "city"), which you represent, received requests from two requestors for information pertaining to a specified arrest. You state you are withholding social security numbers pursuant to section 552.147 of the Government Code.<sup>1</sup> You claim the submitted information is either not subject to the Act or excepted from disclosure under sections 552.101, 552.103, 552.108, and 552.130 of the Government Code. We have considered your arguments and reviewed the submitted information.

The Act generally requires the disclosure of information maintained by a "governmental body." See Gov't Code § 552.021. While the Act's definition of a "governmental body" is broad, it specifically excludes "the judiciary." See *id.* § 552.003(1)(A), (B). You inform us the submitted information in Exhibit 4 consists of records of the municipal court. Accordingly, because Exhibit 4 consists of judicial records, it is not required to be released pursuant to the Act. But we note Texas courts have long recognized a common-law right to copy and inspect certain judicial records. Attorney General Opinions DM-166 at 2-3 (1992)

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<sup>1</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

(public has general right to inspect and copy judicial records), H-826 (1976); Open Records Decision No. 25 (1974); *see Star Telegram, Inc. v. Walker*, 834 S.W.2d 54, 57 (Tex. 1992) (documents filed with courts are generally considered public and must be released). Additionally, the records may be subject to disclosure under statutory law. *See* Gov't Code § 27.004 (all papers filed in case in justice court are subject to inspection of any interested party at reasonable times); Loc. Gov't Code § 191.006 (records belonging to office of county clerk shall be open to public unless access restricted by law or court order).

We next note you inform us the submitted arrest report pertains to a completed criminal investigation. Under section 552.022(a)(1) of the Government Code, a completed report, audit, evaluation, or investigation made of, for, or by a governmental body is expressly public unless it either is excepted under section 552.108 of the Government Code or is expressly confidential under other law. Although you assert this information is excepted under section 552.103 of the Government Code, this section is a discretionary exception under the Act and does not constitute "other law" for purposes of section 552.022. *See Dallas Area Rapid Transit v. Dallas Morning News*, 4 S.W.3d 469, 475-76 (Tex. App.—Dallas 1999, no pet.) (governmental body may waive section 552.103); Open Records Decision No. 542 at 4 (1990) (statutory predecessor to section 552.103 may be waived). Accordingly, the city may not withhold the submitted information under section 552.103. However, sections 552.101 and 552.130 constitute other law for purposes of section 552.022; therefore, we will consider whether these sections require you to withhold any of the information at issue. We also will consider your argument under section 552.108.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." 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) (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, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You assert that the present requests require the city to compile the criminal history of the individual named in the requests for information. After reviewing the requests and the submitted information, however, we find the requestors are each seeking information pertaining to a specific criminal investigation. Accordingly, we find the named individual's

right to privacy has not been implicated by these requests, and the city may not withhold the submitted information in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy and the decision in *Reporters Committee*.

You assert some of the information in Exhibit 3 is excepted under section 552.108 of the Government Code. Section 552.108(a)(2) excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. You inform us the information at issue pertains to a criminal prosecution that concluded with the court placing the defendant on an order of deferred disposition pursuant to article 45.051 of the Code of Criminal Procedure. Based on your representations, we agree the information at issue relates to a criminal prosecution that did not result in conviction or deferred adjudication. Accordingly, section 552.108(a)(2) of the Government Code is generally applicable to this information.

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 Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976), and includes a detailed description of the offense. *See Houston Chronicle*, 531 S.W.2d at 186-88; *see also* Open Records Decision No. 127 (1976) (summarizing types of information deemed public by *Houston Chronicle*). We note the information being released does not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See* ORD 127. Accordingly, we determine the city must release a sufficient portion of the information you have marked under section 552.108 to encompass a detailed description of the offense to satisfy the required release of basic information pursuant to *Houston Chronicle*. The city may withhold the remaining information you have marked under section 552.108(a)(2).<sup>2</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.

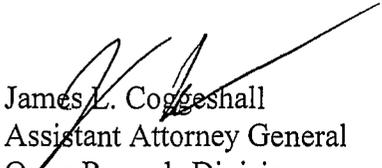
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

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<sup>2</sup>As our ruling is dispositive, we do not address your other arguments to withhold this information.

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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tp

Ref: ID# 400664

Enc. Submitted documents

c: Requestor  
(w/o enclosures)