



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 19, 2010

Ms. T. Trisha Dang
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-17563

Dear Ms. Dang:

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# 400891.

The Corpus Christi Police Department (the "department") received a request for all police reports and activity involving the requestor and a named individual for specified time periods. You claim 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. 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). 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 individual has significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You state the present request requires the department to compile unspecified law enforcement records concerning a named individual, other than the requestor, and thus implicates this individual's right to privacy. However, after reviewing the request and the

submitted information, we find the requestor is, in part, seeking specific domestic violence reports involving herself and the named individual. Accordingly, this portion of the request does not implicate the named individual's right to privacy, and none of the information relating to domestic violence involving the requestor and the named individual may be withheld under section 552.101 on the basis of common-law privacy.

Section 552.101 also encompasses information protected by other statutes. Criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) authorize a criminal justice agency to obtain CHRI, but a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *Id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-411.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* ORD 565. The information you have marked does not consist of CHRI obtained from DPS or any other criminal justice agency. Accordingly this information is not confidential under section 411.083 of the Government Code, and the department may not withhold it under section 552.101 on that ground.

Section 552.101 also encompasses section 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code relates to local emergency communications districts. Section 772.318 applies to an emergency 9-1-1 district established in accordance with chapter 772, and makes confidential the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier. *See* Open Records Decision No. 649 (1996). You state the City of Corpus Christi is part of an emergency communication district established under section 772.318.¹ You state the information you have marked consists of the originating telephone number and address of a 9-1-1 caller that was furnished by a 9-1-1 service supplier. Accordingly, we agree the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code.

Section 552.108(a)(1) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

¹Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

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 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 state the information you have marked is related to active criminal cases that are pending investigation and prosecution. Based on these representations and our review of the information at issue, we conclude section 552.108(a)(1) is generally applicable to the information you have marked. *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 present in active cases).

Section 552.108, however, does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov’t Code § 552.108(c). Such basic information refers to the information held to be public in *Houston Chronicle* and includes a detailed description of the offense. *See* 531 S.W.2d at 186-87; Open Records Decision No. 127 (1976) (summarizing types of information considered basic information). Accordingly, with the exception of basic information, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code.

You assert a portion of the basic information is subject to common-law privacy. To demonstrate the applicability of common-law privacy, both prongs of the two-part test in *Industrial Foundation* must be satisfied. 540 S.W.2d 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. *Id.* at 683. In addition, this office has found some kinds of medical information or information indicating disabilities or specific illnesses are generally highly intimate or embarrassing. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). In this instance, the portion of the basic information you seek to withhold under common-law privacy pertains to the requestor, who has a special right of access to information pertaining to herself under section 552.023 of the Government Code. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Therefore, the department may not withhold any of the basic information from the requestor under section 552.101 of the Government Code in conjunction with common-law privacy.

You assert some of the remaining information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle title or registration issued by a Texas agency is excepted from public release. Gov’t Code § 552.130(a)(2). Therefore, the department must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130.

In summary, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code. Except for basic information, the department may withhold the information you have marked under section 552.108(a)(1) of the Government Code. The department must withhold the Texas motor vehicle record information you have marked, and the information we have marked, under section 552.130 of the Government Code.² The department must release the remaining information.³

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,



Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 400891

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³We note that because the requestor has a special right of access to the information being released, if the department receives another request for this particular information from a different requestor, then the department should again seek a decision from this office.