



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

December 1, 2010

Ms. Jessica Sangsvang  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street, Suite 300  
Fort Worth, Texas 76102

OR2010-17971

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# 401477 (Fort Worth PIR Request No. W003789).

The City of Fort Worth (the "city") received a request for audio of any 9-1-1 calls pertaining to a shooting which occurred at a specified address on a specified date. 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.

Initially, we note the submitted information includes the incident detail report related to the 9-1-1 call. However, we note the requestor only seeks the submitted 9-1-1 call recording. Accordingly, the incident detail report, is not responsive to the request for information. This ruling does not address this non-responsive information, and the city need not release this information in response to the request.

We next address the arguments you raise for the 9-1-1 call recording. Section 552.101 of the Government Code excepts from public 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 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). Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. *See U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). However, when a requestor asks for information relating to a particular incident, the request does not implicate the privacy concerns expressed in *Reporters Committee* because

complying with the request does not require the governmental body to compile unspecified records. You contend the present request requires the city to compile unspecified records. We disagree. In this instance, the requestor is seeking information pertaining to a specific incident. We therefore determine this request does not implicate the privacy rights of any individual as expressed in *Reporters Committee*, and the city may not withhold the 9-1-1 call recording under section 552.101 on that basis.

You also raise section 552.108 of the Government Code for the 9-1-1 call recording. 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 state the 9-1-1 call recording relates to a pending investigation by the city’s police department and pending possible prosecution by the Tarrant County District Attorney’s Office. Based on your representation and our review, we conclude the release of the 9-1-1 call recording 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). Accordingly, the city may withhold the 9-1-1 call recording under section 552.108(a)(1).

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 401477

Enc. Submitted documents

c: Requestor  
(w/o enclosures)