



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 11, 2011

Ms. J. Middlebrooks
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2011-04994

Dear Ms. Middlebrooks:

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# 414445 (DPD PIR # 2011-00744).

The Dallas Police Department (the "department") received a request for a specified case report. You claim portions of the submitted information are excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code.¹ We have considered the claimed exceptions 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 of the Government Code encompasses the doctrine of common-law privacy. Common-law privacy 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. *See Industrial Found. v. Texas 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.*

¹While you also raise section 552.136, you have not presented arguments explaining how this exception applies to the submitted information, as required by section 552.301. Thus, we assume you have withdrawn this claim. *See* Gov't Code §§ 552.301(e)(1)(A), .302.

at 681-82. This office has found 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) (recognizing distinction between public records found in courthouse files and local police stations, and compiled summary of information, and noting that individual has significant privacy interest in compilation of one's criminal history). However, active warrant information or other information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See* Gov't Code § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). Therefore, the department must withhold the information we have marked under section 552.101 in conjunction with common-law privacy. However, none of the remaining information you seek to withhold is highly intimate or embarrassing and of no legitimate public concern, and it may not be withheld under section 552.101 on the basis of common-law privacy.

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. *Id.* § 552.108(a)(1). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why release of the requested information would interfere with the detection, investigation, or prosecution of crime. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You state the case at issue is pending criminal prosecution. Based on your representation and our review, we find release of the information at issue 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) (specifying law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Therefore, the department may withhold the information you have marked under section 552.108(a)(1).

Section 552.130 of the Government Code excepts from disclosure "information [that] relates to (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or] (2) a motor vehicle title or registration issued by an agency of this state[.]" Gov't Code § 552.130(a). Therefore, the department must withhold the information you have marked under section 552.130.² We have marked additional information the department must withhold under this section.

²We note Open Records Decision No. 684 (2009) is a previous determination to all governmental bodies, authorizing the withholding of ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, the department must withhold the information (1) we have marked under section 552.101 in conjunction with common-law privacy and (2) you and we have marked under section 552.130. The department may withhold the information you have marked under section 552.108(a)(1). The remaining information must be released to the requestor.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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

Ref: ID # 414445

Enc. Submitted documents

c: Requestor
(w/o enclosures)

³ We note you marked a social security number pursuant to section 552.147(b) of the Government Code. This section 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. Gov't Code § 552.147(b).