



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 6, 2012

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street Third Floor  
Fort Worth, Texas 76102

OR2012-00289

Dear Ms. Byles:

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# 441633 (PIR No. W012436).

The City of Fort Worth (the "city") received a request for any incident listing two named individuals as a complainant, victim, witness, arrestee, or suspect, and all incidents at, or calls occurring from, a specified address. You state you have released some responsive information to the requestor. 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). 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, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, that records relating to routine traffic violations are not considered criminal history record information. *Cf.* Gov't Code § 411.082(2)(B) (criminal history record information does not include driving record information). The present request, in part, seeks all records pertaining to the named individuals. Thus, this portion of the request requires the city to compile the named individuals' criminal history. Therefore, to the extent the city maintains law enforcement records depicting the named individuals as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy as a compilation of the named individuals' criminal history. However, you have submitted information in which the named individuals are not listed as a suspect, arrestee, or criminal defendant. We find this information does not implicate any individual's right to privacy for purposes of *Reporters Committee*. Accordingly, we will address your remaining arguments under sections 552.101, 552.108, and 552.130 of the Government Code for this information.

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 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). The city states, and provides a statement from the Tarrant County District Attorney's office, that case number 11-73789 is the subject of a criminal case that is open and pending. *See Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975) (court delineates law enforcement interests that are present in active cases), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Accordingly, we conclude that section 552.108(a)(1) of the Government Code is applicable to the information at issue.

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*. 531 S.W.2d at 186–87. This information includes, but is not limited to, the details of the arrest, the physical condition of the arrested person, and a detailed description of the offense. *See Open Records Decision No. 127* (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, which the city states it will release, the city may withhold case number 11-73789 under section 552.108(a)(1) of the Government Code.

Common-law privacy also encompasses the specific types of information held to be intimate or embarrassing in *Industrial Foundation*. The types of information considered intimate and

embarrassing by the Texas Supreme Court in *Industrial Foundation* include 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. 540 S.W.2d at 683. This office has found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See* Open Records Decision No. 545 (1990). With the exception of the information we have marked for release, we find the information you have marked, as well as the additional information we have marked, is highly intimate or embarrassing and of no legitimate public concern. Therefore, the city must withhold the information at issue under section 552.101 in conjunction with common-law privacy.

You also seek to withhold the originating telephone numbers and addresses of 9-1-1 callers contained in the submitted information under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code. In Open Records Letter No. 2011-15641 (2011), we granted a previous determination authorizing the city to withhold originating telephone numbers of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 in conjunction with section 772.218. *See* Open Records Decision No. 673 at 7-8 (2001). Furthermore, in Open Records Letter No. 2011-15956 (2011) we granted a previous determination authorizing the city to withhold an originating address of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 in conjunction with section 772.218. Therefore, the city must withhold any such telephone numbers and addresses contained in the submitted information pursuant to Open Records Letter Nos. 2011-15641 and 2011-15956.

Portions of the remaining information are subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130. The city must withhold the driver's license and personal identification numbers and motor vehicle record information it has marked, as well as the additional motor vehicle record information we have marked, under section 552.130 of the Government Code.

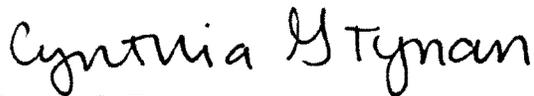
In summary, to the extent the city maintains law enforcement records depicting the named individuals as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information the city may withhold case number 11-73789 under section 552.108(a)(1) of the Government Code. With the exception of the information we have marked for release, the city must withhold the information marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the originating telephone numbers and addresses of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772

of the Health and Safety Code pursuant to Open Records Letter Nos. 2011-15641 and 2011-15956. The city must withhold the information marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/em

Ref: ID# 441633

Enc. Submitted documents

c: Requestor  
(w/o enclosures)