



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 27, 2014

Mr. James Kopp
Assistant City Attorney
City of San Antonio
P.O. Box 839966
San Antonio, Texas 78283

OR2014-11056

Dear Mr. Kopp:

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# 530532 (COSA File No. W027415).

The San Antonio Police Department (the "department") received a request for a specified incident report; a copy of all offense reports, incident reports, supplemental reports, and investigative reports involving three specified individuals during a specified time period; a copy of all offense reports, incident reports, supplemental reports, and investigative reports at a specified address during a specified time period; and list of offenses generated at a specified address. You claim a portion of the requested information is excepted from disclosure under section 552.108 of the Government Code. We have considered the exception you claim and reviewed the submitted information.

Section 552.101 of the Government Code excepts "information considered to be confidential by law, either constitutional, statutory, or by judicial decision."¹ Gov't Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public.

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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) (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 that individual has significant privacy interest in compilation of one's criminal history). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, information that refers to an individual solely as a victim, witness, or involved person does not implicate the privacy interest of the individual and may not be withheld under section 552.101 on that basis.

The present request, in part, requires the department to compile unspecified law enforcement records concerning the individuals named in the request, thus implicating the named individuals' right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individuals as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 in conjunction with common-law privacy. However, the requestor also seeks information pertaining to a specified report number; thus, this portion of the request does not require the department to compile an individual's criminal history and does not implicate the privacy interests of the named individuals. This information is not part of a criminal history compilation and may not be withheld under section 552.101 on that basis. We will, however, consider your argument against disclosure of the specified incident report.

Section 552.108(a) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if: (1) release of the information would interfere with the detection, investigation, or prosecution of crime." Gov't Code § 552.108(a)(1). Generally, 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 that Offense Report No. 14076916 relates to a pending criminal investigation. Based upon this representation, we conclude that the release of Offense Report No. 14076916 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) (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).

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*. *See* 531 S.W.2d at 186-88. Thus,

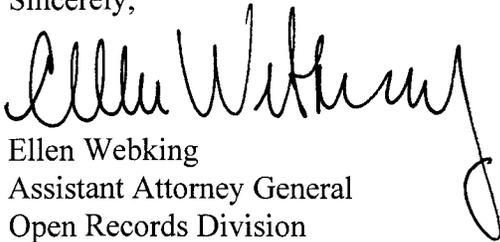
with the exception of the basic front page offense information, you may withhold Offense Report No. 14076916 from disclosure based on section 552.108(a)(1).

In summary, to the extent the department maintains law enforcement records other than the specified report number depicting the named individuals as a suspect, arrestee, or criminal defendant, the department 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 department may withhold Offense Report No. 14076916 from disclosure based on section 552.108(a)(1) of the Government Code.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Ellen Webking
Assistant Attorney General
Open Records Division

EW/eb

Ref: ID# 530532

Enc. Submitted documents

c: Requestor
(w/o enclosures)