



August 17, 1999

Mr. Miles K. Risley  
Senior Assistant City Attorney  
Legal Department  
City of Victoria  
P.O. Box 1758  
Victoria, Texas 77902-1758

OR99-2319

Dear Mr. Risley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code. Your request was assigned ID# 126669.

The City of Victoria (the "city") received a request for all criminal information related to a named individual. You claim that the requested 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.

Section 552.101 excepts from disclosure information considered to be confidential by law, either constitutional, statutory, or by judicial decision. Section 552.101 encompasses the common-law right to privacy. The common-law right to privacy protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information is not of legitimate concern to the public. *Industrial Found. v. Texas Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976), *cert. denied*, 430 U.S. 931 (1977). 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 United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989) (concluding that federal regulations which limit access to criminal history record information that states obtain from the federal government or other states recognize privacy interest in such information). Similarly, open records decisions issued by this office acknowledge this privacy interest. *See Open Records Decision Nos. 616 (1993), 565 (1990)*. Here, the request is made to a police department for "everything on him," naming a specific individual. We construe this to be a request for a compilation of the subject individual's criminal history. We note that the submitted information includes the report on case number 9906237 in which the subject individual is named as the victim. That report is not part of a compilation of the individual's criminal history and is therefore not excepted from disclosure on that basis. However, the remaining information is such a compilation and must be withheld under section 552.101 of the Government Code in conjunction with the common-law right of privacy.

Section 552.108 of the Government Code, reads in pertinent part:

(a) Information held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime is excepted from the requirements of Section 552.021 if:

(1) release of the information would interfere with the detection investigation, or prosecution of crime;

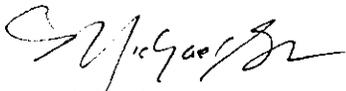
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(c) This section does not except from the requirements of Section 552.021 information that is basic information about an arrested person, an arrest, or a crime.

We construe your position to be that the report in case number 9906237 relates to criminal cases which are currently being investigated, or that this report is relevant to sentencing in an ongoing criminal prosecution. Section 552.103(a)(1) excepts certain information related to current cases. Texas courts have specified the information that must be released and that which may be withheld in such cases. *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*; Open Records Decision No. 127 (1976). Information normally found on the front page of an offense report is generally considered public. *Id.* Thus, you must release the type of information that is considered to be front page offense report information, including a detailed description of an offense or arrest. The remaining portion of the report in this case may be withheld under section 552.108 of the Government Code.

We are resolving this matter with an informal letter ruling rather than with a published open records decision. This ruling is limited to the particular records at issue under the facts presented to us in this request and should not be relied upon as a previous determination regarding any other records. If you have questions about this ruling, please contact our office.

Sincerely,



Michael Jay Burns  
Assistant Attorney General  
Open Records Division

MJB/ch

Ref: ID# 126669

Encl. Submitted documents

cc: Ms. Dinna Wilkins  
103 Cornwall, #158  
Victoria, Texas 77904  
(w/o enclosures)