



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

October 7, 2009

Mr. B. Chase Griffith  
Brown & Hofmeister, L.L.P.  
740 East Campbell Road, Suite 800  
Richardson, Texas 75081

OR2009-14138

Dear Mr. Griffith:

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# 357520 (Flower Mound Public Information Requests #428 and #429).

The Town of Flower Mound (the "town"), which you represent, received two requests from the same requestor for all records for a specified address over a specified time period. You claim that 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.

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 established. *See 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.

You claim that the present request requires the town to compile a private citizen's criminal history. However, the request seeks all reports related to an address, not all reports related to any named person. Therefore, we conclude that the request does not require the town to compile a private citizen's criminal history, and the town may not withhold any of the submitted information under section 552.101 on that basis.

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). You state that report number 09-013850 relates to a pending criminal investigation. Based on this representation, we conclude that the release of this report 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. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e.*, 536 S.W.2d 559 (Tex. 1976) (court delineates law enforcement interests that are present in active cases). Therefore, we agree that section 552.108(a)(1) is generally applicable to report number 09-013850.

Section 552.108(a)(2) 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] it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication[.]" Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in conviction or deferred adjudication. You state that the remaining call reports each relate to a concluded criminal investigation that did not result in conviction or deferred adjudication. Thus, we agree that section 552.108(a)(2) is generally applicable to this information.

However, section 552.108 does not except from disclosure "basic information about an arrested person, an arrest, or a crime." *Id.* § 552.108(c). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle*. *See* 531 S.W.2d at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). In this instance, the information you seek to withhold under section 552.108(a)(2) consists of call reports from a "Computer Aided Dispatching System." In Open Records Decision No. 649 (1996), this office concluded that information contained in a computer-assisted dispatch ("CAD") report is substantially the same as basic information and thus is not excepted from public disclosure under

section 552.108. *See* ORD 649 at 3; *see also* Open Records Decision No. 394 at 3 (1983) (no qualitative difference between information contained in police dispatch records or radio logs and front-page offense report information expressly held to be public in *Houston Chronicle*). Therefore, because the information you seek to withhold under section 552.108(a)(2) is basic information, the town may not withhold that information under section 552.108(a)(2). Accordingly, with the exception of basic information, the town may withhold report number 09-013850 under section 552.108(a)(1), but may not withhold any of the remaining information at issue under section 552.108(a)(2).

Section 552.101 also encompasses information made confidential by other statutes. You raise section 552.101 in conjunction with sections 772.118, 772.218 and 772.318 of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Sections 772.118, 772.218, and 772.318 are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.118 applies to an emergency communication district for a county with a population of more than two million. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000.

You state that the submitted call reports contain telephone numbers and addresses of 9-1-1 callers that were furnished by a 9-1-1 service supplier. You do not inform us, however, whether the town is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318 of the Health and Safety Code. Nevertheless, if the town is part of an emergency communication district established under one of these sections, then the town must withhold the telephone numbers and addresses of the 9-1-1 callers contained in the submitted call reports under section 552.101, to the extent that such information was provided by a 9-1-1 service supplier. If the town is not subject to section 772.118, section 772.218, or section 772.318, then the town may not withhold any information in the call reports under section 552.101 on the basis of section 772.118, section 772.218, or section 772.318.

We note that section 552.130 of the Government Code excepts from disclosure "information [that] relates to . . . a motor vehicle title or registration issued by an agency of this state[.]"<sup>1</sup> Gov't Code § 552.130(a)(2). Accordingly, the town must withhold the Texas license plate number we have marked pursuant to section 552.130.

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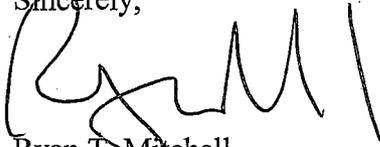
<sup>1</sup>The Office of the Attorney General will raise a mandatory exception, such as section 552.130, on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

In summary: (1) with the exception of basic information, the town may withhold report 09-013850 under section 552.108(a)(1) of the Government Code; (2) if the town is part of an emergency communication district established under section 772.118, section 772.218, or section 772.318 of the Health and Safety Code, then the town must withhold the telephone numbers and addresses of the 9-1-1 callers contained in the submitted call reports under section 552.101, to the extent such information was provided by a 9-1-1 service supplier; (3) the town must withhold the Texas license plate number we have marked pursuant to section 552.130 of the Government Code; and (4) the town must release the remainder of the submitted information.

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,



Ryan T. Mitchell  
Assistant Attorney General  
Open Records Division

RTM/jb

Ref: ID# 357520

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)