



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

August 7, 2014

Ms. Sarah R. Martin
Assistant City Attorney
Arlington Police Department
Mail Stop 04-0200
P.O. Box 1065
Arlington, Texas 76004-1065

OR2014-13757

Dear Ms. Martin:

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# 534612 (APD Ref. No. 15891).

The Arlington Police Department (the "department") received a request for (1) all police reports involving a named individual and (2) the 9-1-1 calls and call detail reports involving the named individual and a specified incident. You claim 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 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. *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. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683.

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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. 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.

In this case, the request for information, in part, seeks unspecified law enforcement records pertaining to the named individual. This part of the request requires the department to compile the named individual's criminal history and thus implicates the named individual's rights to privacy. However, we find the part of the request that seeks information pertaining to the specified incident does not implicate the named individual's privacy interests. You have submitted a 9-1-1 recording, call sheet number 140750559, and event report number L14075P0559, which pertain to the request regarding the specified incident. As such, this information may not be withheld as part of a criminal history compilation. However, to the extent the department maintains other law enforcement records listing the named individual 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. We will address your arguments against disclosure of the 9-1-1 recording, call sheet number 140750559, and event report number L14075P0559.

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(a)(1) must reasonably explain how and why release of the information at issue 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 indicate the information at issue concerns a pending and open investigation of the department. Based on your representation, we find the department has demonstrated release of the information 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) (delineating law enforcement interests 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." *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

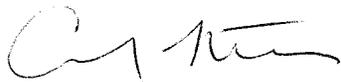
at 186-187; *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Therefore, with the exception of basic information, the department may withhold the 9-1-1 recording, call sheet number 140750559, and event report number L14075P0559 under section 552.108(a)(1) of the Government Code.

In summary, to the extent the department maintains law enforcement records, other than the specifically requested information, listing the named individual 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 the 9-1-1 recording, call sheet number 140750559, and event report number L14075P0559 under 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,



Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 534612

Enc. Submitted documents

c: Requestor
(w/o enclosures)