



January 15, 2015

Mr. Brandon W. Carr
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2015-00819

Dear Mr. Carr:

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# 550326 (PIR No. W037910).

The City of Fort Worth (the "city") received a request for information regarding two named individuals during a specified time period. You indicate the city will redact some information pursuant to the previous determinations in Open Records Letter Nos. 2013-22304 (2013)¹ and 2011-15641 (2011).² We understand the city will redact motor vehicle record information under section 552.130(c) of the Government Code and social security numbers under section 552.147(b) of the Government Code.³ You claim the

¹Open Records Letter No. 2013-22304 is a previous determination authorizing the city to withhold FBI numbers under section 552.101 of the Government Code in conjunction with section 411.083 of the Government Code and federal law without requesting a ruling from this office.

²Open Records Letter No. 2011-15641 is a previous determination authorizing the city to withhold, under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, of an originating telephone number of a 9-1-1 caller furnished by a service supplier established in accordance with chapter 772 of the Health and Safety Code without the necessity of requesting an attorney general decision.

³Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See Gov't Code* § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. *See id.* § 552.147(b).

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 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. This office has found 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. United States 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). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public.

The present request, in part, requires the city to compile the criminal histories of the individuals specified in the request and implicates those individuals’ right to privacy. However, upon review of the request and the submitted information, we find the requestor is, in part, seeking domestic violence reports involving himself and one of the named individuals. Thus, this portion of the request does not implicate that individual’s right to privacy, and the domestic violence reports involving the requestor and that individual may not be withheld under section 552.101 of the Government Code on the basis of that individual’s privacy interests as a compilation of her criminal history. To the extent the city maintains unspecified law enforcement records listing either of the named individuals as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

However, information that refers to an individual solely as a victim, witness, or involved person is not a compilation of the individual’s criminal history and may not be withheld under section 552.101 on that basis. We note you have submitted information that does not list either of the individuals at issue as a suspect, arrestee, or criminal defendant. This information does not consist of a compilation of these individuals’ criminal histories, and the city may not withhold it under section 552.101 of the Government Code on that basis. Accordingly, we will address the applicability of other exceptions to disclosure of this information.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code, which provides, in pertinent part:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

(1) if maintained on paper or microfilm, kept separate from adult files and records;

(2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and

(3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

...

(e) Law enforcement records and files concerning a child may be inspected or copied by a juvenile justice agency as that term is defined by Section 58.101, a criminal justice agency as that term is defined by Section 411.082, Government Code, the child, and the child's parent or guardian.

Fam. Code § 58.007(c), (e). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997, are confidential under section 58.007. *See id.* § 51.03(a) (defining "delinquent conduct"). For purposes of section 58.007(c), "child" means a person who is ten years of age or older and under seventeen years of age at the time of the incident at issue. *See id.* § 51.02(2). Upon review, we find report number 09-106912 and call for service number 090824971 involve a child engaged in delinquent conduct that occurred after September 1, 1997. As such, this information is subject to section 58.007(c). Although the requestor may be a parent of the juvenile offender, the information at issue reflects the juvenile offender is now an adult. Accordingly, the requestor no longer has a right of access to the adult child's records under section 58.007(e). *See id.* § 58.007(e). It does not appear that any of the exceptions to confidentiality under section 58.007 apply. Accordingly, the city must withhold report number 09-106912 and call for service number 090824971 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.⁴

Section 552.108(a) of the Government Code excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or

⁴As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

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). A governmental body claiming section 552.108(a)(1) must reasonably explain how and why the 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, 710 (Tex. 1977). The city states report number 14-29092 and call for service number 140236508 relate to a pending criminal prosecution. Based on this representation, we conclude the release of this 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, 186-87 (Tex. 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. 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; Open Records Decision No. 127 at 3-4 (1976) (summarizing types of information deemed public by *Houston Chronicle*). Thus, with the exception of basic information, the city may withhold report number 14-29092 and call for service number 140236508 under section 552.108(a)(1) of the Government Code.

In summary, to the extent the city maintains unspecified law enforcement records listing either of the named individuals as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold report number 09-106912 and call for service number 090824971 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. With the exception of basic information, the city may withhold report number 14-29092 and call for service number 140236508 under section 552.108(a)(1) of the Government Code. The city must release the remaining information.⁵

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

⁵We note the requestor has a right of access to his own motor vehicle record information and social security number pursuant to section 552.023 of the Government Code and his own e-mail address pursuant to section 552.137(b) of the Government Code. *See* Gov’t Code §§ 552.023(a), .137(b); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual requests information concerning himself).

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

A handwritten signature in cursive script, appearing to read "Kristi L. Godden".

Kristi L. Godden
Assistant Attorney General
Open Records Division

KLG/cz

Ref: ID# 550326

Enc. Submitted documents

c: Requestor
(w/o enclosures)