



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 10, 2017

Ms. Carla A. Robinson
City Attorney
City of College Station
P.O. Box 9960
College Station, Texas 77842

OR2017-05083

Dear Ms. Robinson:

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# 648503 (File No. A16-001753).

The College Station Police Department (the "department") received a request for police records in which a named individual is listed as a victim or perpetrator. 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). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

We note the requestor has been appointed to complete a court-ordered social study regarding the named individual and has provided a release form signed by this individual. Thus, the requestor has a right of access to the private information pertaining to the named individual pursuant to section 552.023 of the Government Code. *See* Gov't Code § 552.023(a) ("person or a person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and that is protected from public disclosure by laws intended to protect that person's privacy interests"); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, the department may not withhold any portion of the submitted information from this requestor under section 552.101 of the Government Code in conjunction with common-law privacy as a compilation of the named individual's criminal history.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A); Open Records Decision No. 434 (1986). You state the remaining information pertains to a criminal investigation that did not result in conviction or deferred adjudication. Based on this representation, we agree section 552.108(a)(2) is applicable to the remaining information.

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). Section 552.108(c) refers to the basic "front-page" information held to be public in *Houston Chronicle Publishing 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*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Accordingly, with the exception of basic information, the department may generally withhold the remaining information under section 552.108(a)(2) of the Government Code.

However, as noted above, the requestor has been appointed to conduct a court-ordered social study concerning the individual named in the request. Accordingly, the requestor may have a right of access to some of the information at issue pursuant to section 411.1285 of the Government Code. Section 411.1285(a) of the Government Code provides, in part, that "[a] domestic relations office created under Chapter 203, Family Code, is entitled to obtain from the [Texas Department of Public Safety ("DPS")] [CHRI] that relates to a person who is a

party to a proceeding in which the domestic relations office is providing services permitted under Chapter 203, Family Code[.]”¹ See Gov’t Code § 411.1285(a); see also Fam. Code ch. 203 (governing administration of domestic relations offices). In addition, section 411.087(a) of the Government Code provides, in pertinent part:

(a) [a] person, agency, department, political subdivision, or other entity that is authorized by this subchapter or subchapter E-1 to obtain from the [DPS CHRI] maintained by the [DPS] that relates to another person is authorized to:

...
(2) obtain from any other criminal justice agency in this state [CHRI] maintained by that criminal justice agency that relates to that person.

Gov’t Code § 411.087(a)(2). We note CHRI is defined as “information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions.” See *id.* § 411.082(2). However, a domestic relations office may only receive CHRI if the information relates to a person who is a party to a proceeding in which the domestic relations office is providing services permitted under chapter 203 of the Family Code. See *id.* § 411.1285(a); see also Open Records Decision No. 655 (1997) (discussing limitations on release of CHRI).

In this instance, the requestor states she is conducting a court-ordered social study regarding the individual named in the request. Therefore, if the department determines the CHRI within the information at issue relates to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then, pursuant to section 411.1285(a), the department must make available to the requestor information pertaining to that person that shows identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions. In that event, with the exception of basic information, the department may withhold the remaining information under section 552.108(a)(2) of the Government Code. See Open Records Decision No. 451 (1986) (specific statutory right of access provisions overcome general exceptions to disclosure under the Act). However, if the department determines the CHRI within the information at issue does not relate to a person who is a party to a proceeding in which services are being provided pursuant to chapter 203 of the Family Code, then with the exception of basic information, the department may withhold the submitted information under section 552.108(a)(2) of the Government Code.

¹A “domestic relations office” is defined as “a county office that serves families, county departments, and courts to ensure effective implementation of this title.” Fam. Code § 203.001(2).

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,



Kieran Hillis
Assistant Attorney General
Open Records Division

KH/sb

Ref: ID# 648503

Enc. Submitted documents

c: Requestor
(w/o enclosures)