



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 23, 2009

Ms. Susan Camp-Lee
Sheets & Crossfield, P.C.
Attorney for City of Hutto
309 East Main Street
Round Rock, Texas 78664-5246

OR2009-08616

Dear Ms. Camp-Lee:

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# 347795.

The City of Hutto (the "city"), which you represent, received a request for all police reports, code enforcement notices, citations, and correspondence for the residences of two named individuals from January 2002 through April 13, 2009. You have redacted social security numbers from the submitted information.¹ You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have redacted information from the submitted documents. You do not assert, nor does our review of our records indicate, that you have been authorized to withhold any of the redacted information without seeking a ruling from this office. *See* Gov't Code § 552.301(a); Open Records Decision No. 673 (2000). Because we can discern the nature of the information that has been redacted, being deprived of this information does not inhibit our ability to make a ruling in this instance. Nevertheless, be advised that a failure to provide this office with requested information generally deprives us of the ability to determine

¹We note 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 under the Act.

whether information may be withheld and leaves this office with no alternative other than ordering that the redacted information be released. *See* Gov't Code §§ 552.301(e)(1)(D) (governmental body must provide this office with copy of "specific information requested" or representative sample), .302.

Section 552.101 of the Government Code excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." *Id.* § 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 met. *Id.* at 681-82. This office has found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). A portion of the submitted information consists of personal medical information that is highly intimate or embarrassing and not of legitimate public concern. The city must withhold this information, which we have marked, under section 552.101 in conjunction with common-law privacy.

This office has also found an individual's criminal history when compiled by a governmental body is excepted from required public disclosure under common-law privacy. *Cf. U.S. 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 requestor asks the city to compile unspecified law enforcement records pertaining to two addresses, not pertaining to the named individuals. Therefore, the request is not for a compilation of any individual's criminal history, and the city may not withhold the information on that basis.

You raise section 552.130 of the Government Code for portions of the remaining information. Section 552.130 excepts from disclosure information that relates to a Texas motor vehicle driver's license or a Texas motor vehicle title or registration. Gov't Code § 552.130(a)(1), (2). The city must withhold the Texas driver's license numbers and Texas motor vehicle record information we have marked in the remaining submitted information under section 552.130 of the Government Code.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy and the

information we have marked under section 552.130 of the Government Code. The remaining information, including the improperly redacted information, must be released.

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, 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 at (512) 475-2497.

Sincerely,



Emily Sitton
Assistant Attorney General
Open Records Division

EBS/rl

Ref: ID# 347795

Enc. Submitted documents

c: Requestor
(w/o enclosures)