



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2009

Chief Don Hatcher
City of Leander Police Department
705 Leander Drive
Leander, Texas 78641

OR2009-08827

Dear Chief Hatcher:

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# 347396.

The Leander Police Department (the "department") received a request for a copy of a specified complaint, a list of all police calls for a specified address, and a list of records involving a named individual at the specified address. You state you have released some of the responsive information to the requestor. You claim that portions of the requested information are excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code.¹ We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that you have redacted information subject to section 552.130 of the Government Code. Pursuant to section 552.301 of the Government Code, a governmental body that seeks to withhold requested information must submit to this office a copy of the information, labeled to indicate which exceptions apply to which parts of the copy, unless the governmental body has received a previous determination for the information at issue. *See* Gov't Code §§ 552.301(a), .301(e)(1)(D). You do not assert, nor does our review of our records indicate, that the department is authorized to withhold the redacted information without first seeking a ruling from this office. *See id.* § 552.301(a); Open Records Decision No. 673 (2000). In this instance, we can discern the nature of the redacted information; thus,

¹We understand you to raise section 552.147 of the Government Code to withhold social security numbers, as that is the proper exception for your assertion.

being deprived of that information does not inhibit our ability to make a ruling. In the future, however, the department should refrain from redacting any information for which it is not authorized.

Section 552.101 of the Government Code exempts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section 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 satisfied. *Id.* at 681-82. This office has found that 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 that 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 department to compile unspecified law enforcement records concerning the individual at issue. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.

We note that you have submitted records that do not list the named individual as a suspect, arrestee, or defendant. This information does not implicate the privacy interests of the named individual. Thus, we will address your arguments against the disclosure of this information.

Section 552.130 of the Government Code exempts from disclosure information that relates to a motor vehicle operator's or driver's license or permit or a motor vehicle title or registration issued by an agency of this state. *See* Gov't Code § 552.130(a)(1), (2). Because this exception protects personal privacy, the requestor has a right of access to his own Texas motor vehicle information under section 552.023 of the Government Code. *See generally id.* § 552.023(b) (governmental body may not deny access to person to whom information relates, or that person's representative, solely on grounds that information is considered confidential by privacy principles). However, the department must withhold the remaining Texas motor vehicle information we have marked under section 552.130 of the Government Code.

In summary, to the extent the department maintains any information that depicts the named individual as a suspect, arrested person, or criminal defendant, the department must withhold any such information under section 552.101 in conjunction with common-law privacy. The department must withhold the Texas motor vehicle record information that we have marked under section 552.130 of the Government Code. As our ruling is dispositive, we need not address your remaining arguments against the disclosure of the submitted information. The remaining information must be released to the requestor.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.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,



Sarah Casterline
Assistant Attorney General
Open Records Division

SEC/rl

Ref: ID# 347396

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Because the requestor has a special right of access to certain information in this instance, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.