



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 7, 2010

Mr. Joseph J. Gorfida, Jr.
Assistant City Attorney
City of Richardson
P.O. Box 831078
Richardson, Texas 75083-1078

OR2010-00315

Dear Mr. Gorfida:

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# 366462.

The City of Richardson (the "city") received a request for arrest reports, probable cause reports, and arrest history pertaining to two named individuals, including arrests for specified offenses. You claim that 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 that you have redacted some Texas motor vehicle information within the submitted documents. Redaction of this type of information is now permitted pursuant to the previous determination issued to all governmental bodies in Open Records Decision 684 (2009), which authorizes the withholding of ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code. However, in the future, the city must not redact requested information that it submits to this office in seeking an open records ruling, unless the information is the subject of a previous determination under section 552.301 of the Government Code. *See* Gov't Code §§ 552.301(e)(1)(D), .302. Failure to comply with section 552.301 may result in the information being presumed public under section 552.302 of the Government Code. *See id.*

Section 552.101 of the Government Code excepts from public disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. This section encompasses the common-law right of privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668 (Tex. 1976). To demonstrate the applicability of common-law privacy, both prongs of this test must be established. *See id.* at 681-82. This office has found that personal financial information not

relating to a financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See* Open Records Decision Nos. Nos. 600 (1992), 545 (1990). Additionally, 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, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request partially seeks the arrest history of the two named individuals. We find this portion of the request requires the city to compile unspecified law enforcement records concerning the two named individuals. We find that the request for unspecified law enforcement records implicates the two named individuals' right to privacy. Therefore, to the extent the city maintains law enforcement records depicting the two named individuals as suspects, arrestees, or criminal defendants, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, that the requestor also seeks information pertaining to specified offenses. These offenses do not constitute compiled criminal history protected by common-law privacy and may not be withheld on that basis under section 552.101 of the Government Code. Further, you have submitted information that does not list the two named individuals as suspects, arrestees, or criminal defendants. Thus, this information does not implicate the two named individuals' common-law right to privacy. Accordingly, we will address your remaining argument for this information.

Section 552.130 of the Government Code excepts from public disclosure information that relates to a motor vehicle operator's or driver's license or permit issued by an agency of this state or a motor vehicle title or registration issued by an agency of this state. *See id.* § 552.130 (a)(1)-(2). Therefore, the city must withhold the Texas motor vehicle information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code.¹

In summary, to the extent the city maintains law enforcement records depicting the two named individuals as suspects, arrestees, or criminal defendants, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the Texas motor vehicle information you have

¹As stated above, this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

marked, in addition to the information we have marked, under section 552.130 of the Government Code. 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, toll free, at (888) 672-6787.

Sincerely,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/jb

Ref: ID# 366462

Enc. Submitted documents

cc: Requestor
(w/o enclosures)

²The remaining information contains social security numbers. We note that 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. Gov't Code § 552.147(b).