



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 11, 2010

Mr. C. Patrick Phillips
Assistant City Attorney
Office of the City Attorney
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-00505

Dear Mr. Phillips:

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# 366867 (City of Fort Worth Public Information Request No. 0219-10).

The City of Fort Worth (the "city") received a request for all reports pertaining to two named individuals. You state you are releasing some information to the requestor. You also state that you have redacted certain Texas motor vehicle record information relating to an individual other than the requestor under section 552.130 of the Government Code pursuant to previous determinations issued to the city in Open Records Letter Nos. 2006-14726 (2006) and 2007-00198 (2007). See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). You also state that you have redacted social security numbers pursuant to section 552.147 of the Government Code.¹ You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.137 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 (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). A compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person.

¹Section 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).

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 requires the city to compile unspecified police records concerning the two named individuals. Therefore, to the extent that the city maintains law enforcement records depicting any of the individuals named in the request 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. We note, however, that you have submitted information which does not identify any of the named individuals as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individuals. Thus, we will address your arguments against the disclosure of this information.

Section 552.101 also encompasses Chapter 772 of the Health and Safety Code which authorizes the development of local emergency communications districts. Sections 772.118, 772.218, and 772.318 of the Health and Safety Code are applicable to emergency 9-1-1 districts established in accordance with chapter 772. *See* Open Records Decision No. 649 (1996). These sections make the originating telephone numbers and addresses of 9-1-1 callers that are furnished by a service supplier confidential. *Id.* at 2. Section 772.218 applies to an emergency communication district for a county with a population of more than 860,000. You inform us the city is part of an emergency communication district established under section 772.218 of the Health and Safety Code. You also indicate the addresses and telephone numbers you have marked in the submitted 9-1-1 call reports were provided by a 9-1-1 service supplier. Based on your representations, we conclude the city must withhold the addresses and telephone numbers you have highlighted in green under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

Section 552.137 excepts from disclosure "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body" unless the member of the public consents to its release or the e-mail address is of a type specifically excluded by subsection (c). *See id.* § 552.137(a)-(b). The e-mail address you have marked is not of a type specifically excluded by section 552.137(c). *See* Gov't Code § 552.137(c). Therefore the city must withhold the e-mail address you have marked under section 552.137 of the Government Code, unless the owner of the e-mail address at issue consents to its release.²

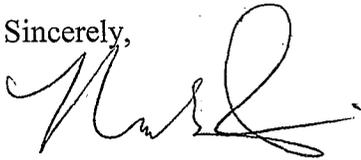
²We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including e-mail addresses of members of the public under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

In summary, to the extent the city maintains law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the telephone numbers and addresses you have highlighted in green under section 552.101 in conjunction with section 772.218 of the Health and Safety Code. The city must withhold the e-mail address you have marked under section 552.137 of the Government Code. The remaining information must be released to the requestor.

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# 366867

Enc. Submitted documents

cc: Requestor
(w/o enclosures)