



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

February 19, 2010

Ms. S. McClellan
Assistant City Attorney
Criminal Law and Police Section
City of Dallas
1400 South Lamar
Dallas, Texas 75215

OR2010-02534

Dear Ms. McClellan:

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# 371102 (DPD No. 2009-10997).

The Dallas Police Department (the "department") received a request for recording relating to any of four specified individuals or to any individual with a specified last name. You claim portions of the submitted information are excepted from disclosure under sections 552.101 and 552.130 of the Government Code. You have also marked information under section 552.147 of the Government Code. We have considered the raised exceptions 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 if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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. In this instance, the requestor asks the department to compile unspecified law enforcement records pertaining to several specified individuals. This request implicates those individuals' rights to privacy. Thus, to the extent the department maintains law enforcement records depicting any of the specified individuals 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 the department has submitted records to this office that do not depict any of the specified individuals as a suspect, arrestee, or criminal defendant. Because this information is not part of a compilation of an individual's criminal history, we will address your arguments against release of this information.

Common-law privacy also encompasses the specific types of information that are held to be intimate or embarrassing in *Industrial Foundation*, including information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *See* 540 S.W.2d at 683. Upon review, we agree the information you have marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the department must withhold the information you have marked under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.130 of the Government Code excepts from 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[.]" Gov't Code § 552.130(a)(1), (2). Accordingly, the department must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.¹

You have marked social security numbers under section 552.147 of the Government Code. Section 552.147 provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Accordingly, the department may

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

withhold the social security numbers you marked under section 552.147 of the Government Code.²

In summary, to the extent the department maintains law enforcement records depicting any of the specified individuals as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy. The department must also withhold the information you marked under section 552.101 of the Government Code in conjunction with common-law privacy and the information marked under section 552.130 of the Government Code. The department may withhold the information marked under section 552.147 of the Government Code. The remaining 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, toll free, at (888) 672-6787.

Sincerely,



Matt Entsminger
Assistant Attorney General
Open Records Division

MRE/rl

Ref: ID# 371102

Enc. Submitted documents

c: Requestor
(w/o enclosures)

²Section 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. See Gov't Code § 552.147(b).