



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 29, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street Third Floor
Fort Worth, Texas 76102

OR2010-06188

Dear Ms. Sangsvang:

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# 383237 (PIR No. 3250-10).

The Fort Worth Police Department (the "department") received a request for information relating to a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim and reviewed the information you submitted.¹

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. This exception encompasses the doctrine of common-law privacy, which protects information if (1) it 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. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *Id.* at 681-82. A compilation of an individual's criminal history is

¹You state that a social security number and Texas motor vehicle record information have been redacted from the submitted documents pursuant to section 552.147 of the Government Code and previous determinations issued to the City of Fort Worth under section 552.130 of the Government Code. *See* Gov't Code § 552.147(b); Open Records Decision No. 673 (2001) (previous determinations).

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 instant request is for unspecified law enforcement records relating to the named individual. Thus, this request requires the department to compile the named individual's criminal history and thereby implicates his privacy interests. Therefore, to the extent that 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.

We note that because report number 07-1980 does not depict the named individual as a suspect, arrested person, or criminal defendant, it may not be withheld on privacy grounds under section 552.101. Section 552.130 of the Government Code is applicable, however, to a portion of that report.² Section 552.130 excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. *See Gov't Code* § 552.130(a)(2). The Texas motor vehicle information we have marked in report number 07-1980 must be withheld under section 552.130.

In summary: (1) any information maintained by the department that depicts the named individual as a suspect, arrested person, or criminal defendant must be withheld under section 552.101 of the Government Code in conjunction with common-law privacy; and (2) the marked Texas motor vehicle information in report number 07-1980 must be withheld under section 552.130 of the Government Code. The rest of the submitted information must be released.

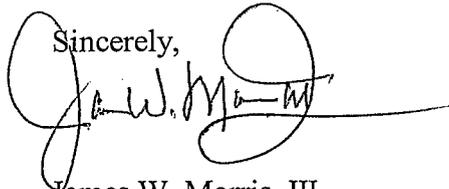
This letter ruling is limited to the particular information at issue in this request and limited to the facts as presented to us; therefore, this ruling must not be relied upon as a previous determination regarding any other information or any other circumstances.

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,

²This office will raise section 552.130 on behalf of a governmental body, as this exception is mandatory and may not be waived. *See Gov't Code* §§ 552.007, .352; Open Records Decision No. 674 at 3 n.4 (2001) (mandatory exceptions).

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,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is stylized with a large, looping initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III
Assistant Attorney General
Open Records Division

JWM/rl

Ref: ID# 383237

Enc: Submitted documents

c: Requestor
(w/o enclosures)