



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 10, 2010

Ms. Kathy Allen
Records Supervisor
City of Burleson
225 West Renfro
Burleson, Texas 76028-4261

OR2010-06703

Dear Ms. Allen:

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# 378721.

The City of Burleson (the "city") received a request for the criminal history of two named individuals. 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 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *Id.* at 681-82. A compilation of an individual's criminal history record information 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, 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 for unspecified records pertaining to two named individuals. This request implicates such individuals' right to privacy. However, we note the requestor has submitted a signed release form from the named individuals authorizing the requestor to obtain the individuals' criminal history information. Thus, the requestor is

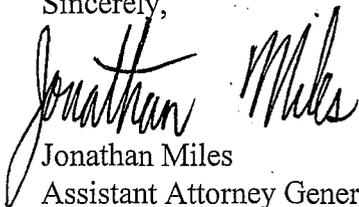
acting as the authorized representative of the individuals, and, as such, has a special right of access to the individuals' criminal history information. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds that information is considered confidential by privacy principles). Therefore, to the extent the city maintains law enforcement records depicting these named individuals as suspects, arrestees, or criminal defendants, the information is not private in this instance, and the city may not withhold such information under section 552.101 of the Government Code. As you raise no further exceptions for this information, it must be released to the requestor.

We note you have submitted information that does not depict the named individuals as suspects, arrestees, or criminal defendants. This information does not constitute a compilation of the named individuals's criminal history. As you raise no further exceptions to disclosure of this information, it must be released.¹

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,



Jonathan Miles
Assistant Attorney General
Open Records Division

JM/jb

¹We note some of the information being released is confidential and not subject to release to the general public. However, the requestor in this instance has a special right of access to this information. Gov't Code § 552.023. If the city receives another request for this same information from an individual who does not have a right of access to the information, the city should resubmit the information to us and request another ruling. *See* Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001). We also note the submitted information contains a social security number. 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.

Ref: ID# 378721

Enc. Submitted documents

c: Requestor
(w/o enclosures)