



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 16, 2010

Ms. Jessica Sangsvang
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2010-08755

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# 382831 (PIR No. 3296-10).

The City of Fort Worth (the "city") received a request for information pertaining to a specified incident, including audio recordings of calls made to 9-1-1. You state that you have redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the 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 claim that portions of the requested information are 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. We have also received and considered comments from the requestor. See Gov't Code § 552.304 (interested party may submit comments stating why information should or should not be released).

Initially, we note a portion of the submitted audio recording, which we have indicated, is not responsive to the instant request because it does not pertain to the specified incident. The city need not release nonresponsive information in response to this request, and this ruling will not address that 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. This section encompasses the doctrine of common-law privacy. Common-law privacy 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). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included 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. *Id.* at 683. 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. U.S. 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. We note, however, that records relating to routine traffic violations are not considered criminal history information. *Cf. Gov't Code* § 411.082(2)(B) (criminal history record information does not include driving record information).

You assert the present request requires the city to compile unspecified law enforcement records concerning a named individual. We note, however, that the request is for information pertaining to a specified incident. Thus, we find that the present request does not implicate any individual's right to privacy for purposes of *Reporters Committee*, and none of the submitted information may be withheld under section 552.101 on this basis. You also assert the information you have marked in the submitted documents constitutes a criminal history compilation. We note this information pertains to routine traffic violations. Thus, we find you have failed to demonstrate how the information you have marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold any portion of the responsive information under section 552.101 in conjunction with common-law privacy.

You assert that some of the remaining submitted information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). Upon review, we find the city must withhold the Texas motor vehicle record information we have marked in the submitted documents and the Texas license plate number we have indicated on the submitted audio recording under section 552.130. However, the remaining information you have marked does not consist of Texas motor vehicle record information and it may not be withheld under section 552.130.

We note that a portion of the remaining information is subject to section 552.136 of the Government Code.¹ Section 552.136 states that "[n]otwithstanding any other provision of

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” *Id.* § 552.136. Accordingly, we find that the city must withhold the insurance policy number we have marked under section 552.136 of the Government Code.²

In summary, the city must withhold the information we have marked in the submitted documents and the Texas license plate number we have indicated in the submitted audio recording under section 552.130 of the Government Code. The city must also withhold the insurance policy number we have marked under section 552.136 of the Government Code. The remaining responsive information must be released.³

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,



Jennifer Luttrall
Assistant Attorney General
Open Records Division

JL/dls

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 insurance policy numbers under section 552.136 of the Government Code, without the necessity of requesting an attorney general decision.

³We note that the information being released contains confidential information to which the requestor has a right of access. *See* Gov’t Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or authorized representative asks governmental body to provide information concerning that individual). Thus, if the city receives another request for this particular information from a different requestor, then the city should again seek a decision from this office.

Ref: ID# 382831

Enc. Submitted documents

c: Requestor
(w/o enclosures)