



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 23, 2010

Ms. Susan Camp-Lee  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2010-11061

Dear Ms. Camp-Lee:

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# 387829.

The City of Round Rock (the "city"), which you represent, received two requests from the same requestor for all information regarding two named individuals, all police calls to two specified addresses within a specified time period, and all information relating to a specified case. You state you have released some information to the requestor. You have redacted social security numbers pursuant to section 552.147 of the Government Code and Texas driver's license and Texas license plate numbers pursuant to Open Records Decision No. 684 (2009).<sup>1</sup> You claim portions of the submitted 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.

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

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<sup>1</sup>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. In addition, this office recently issued ORD 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information relating to routine traffic violations is not excepted from release under common-law privacy. *Cf. Gov't Code § 411.082(2)(B)* (criminal history record information does not include driving record information). Additionally, active warrant information or other information relating to an individual's current involvement in the criminal justice system does not constitute criminal history information for the purposes of section 552.101. *See id.* § 411.081(b) (police department allowed to disclose information pertaining to person's current involvement in the criminal justice system). The present request, in part, seeks all information regarding the named individuals, including "if any arrests were made, citations given, etc., and disposition of each." We find this request for unspecified law enforcement records implicates the individuals' right to privacy. Therefore, to the extent the city maintains any law enforcement records listing either individual as a suspect, arrestee, or criminal defendant, it must withhold any such information under section 552.101 in conjunction with common-law privacy. We note Exhibit B consists of information relating to the incident specified by the requestor, and Exhibit D consists of information that does not list either individual as a suspect, arrestee or criminal defendant. Therefore, neither Exhibit B nor Exhibit D constitutes a criminal history compilation for either named individual, and they may not be withheld on that basis. We note you have marked in red information in Exhibit D you also seek to withhold under section 552.101 as criminal history compilations of other individuals. Upon review, we agree the city must withhold a portion of the information in Exhibit D marked in red under section 552.101 in conjunction with common-law privacy. However, we note some of the information you have marked relates to routine traffic violations and warrant information. You have failed to demonstrate how this information consists of a compilation of a private citizen's criminal history. Therefore, the city may not withhold this traffic violations and warrant information, which we have marked, under section 552.101 as a criminal history compilation. As you raise no other exception to disclosure of this information, it must be released.

Additionally, the types of information considered intimate and 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. 540 S.W.2d at 683. In Open Records Decision No. 393 (1983), this office concluded that, generally, only that information which either identifies or tends to identify a victim of sexual assault or other sex-related offense may be withheld under common law privacy; however, because the identifying information was inextricably intertwined with other releasable information, the governmental body was required to withhold the entire report. Open Records Decision No. 393 at 2 (1983); *see* Open Records Decision No. 339 (1982); *see also Morales v.*

*Ellen*, 840 S.W.2d 519 (Tex. App.—El Paso 1992, writ denied) (identity of witnesses to and victims of sexual harassment was highly intimate or embarrassing information and public did not have a legitimate interest in such information); Open Records Decision No. 440 (1986) (detailed descriptions of serious sexual offenses must be withheld). In this instance, the request for information regarding the specified incident reveals the requestor knows the identity of the individual involved as well the nature of the information at issue. Therefore, Exhibit B must be withheld in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup>

Furthermore, this office has found some kinds of medical information or information indicating disabilities or specific illnesses is protected by common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing and not a matter of legitimate public interest. *See* Open Records Decision No. 545 (1990). You also claim portions of Exhibit D, which you have marked in green, are protected by common-law privacy. Upon review, we agree the personal financial information you have marked is intimate or embarrassing and of no legitimate public concern. Accordingly, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy. However, the remaining information you have marked does not identify an individual. Therefore, this information, which we have marked, may not be withheld under section 552.101 in conjunction with common-law privacy. As you raise no other exception to disclosure of this information, it must be released.

You claim some of the remaining information in Exhibit D, which you have marked in yellow, is confidential under section 552.130, which provides information relating to a motor vehicle operator's license or driver's license, a motor vehicle title or registration, or a personal identification document issued by a Texas agency is excepted from public release. Gov't Code §.552.130(a)(1)–(3). Therefore, the city must withhold the information you have marked, and the additional information we have marked, under section 552.130 of the Government Code.

In summary, to the extent the city maintains law enforcement records listing either named individual as a suspect, arrestee, or criminal defendant, it must withhold such information under section 552.101 in conjunction with common-law privacy. The city must withhold Exhibit B and the marked criminal history information and personal financial information in Exhibit D under section 552.101 in conjunction with common-law privacy. The city must withhold the marked information in Exhibit D under section 552.130 of the Government Code. The remaining information must be released.

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<sup>2</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of the information at issue.

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](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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/em

Ref: ID# 387829

Enc. Submitted documents

c: Requestor  
(w/o enclosures)