



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 5, 2010

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

OR2010-16789

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# 400071 (Round Rock Ref. #W000594-082710).

The City of Round Rock (the "city"), which you represent, received a request for any police reports involving the requestor and another individual. You state the city is releasing some of the responsive information. We note the city has redacted social security numbers from the submitted information.<sup>1</sup> You claim that the submitted information is 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.

Initially, we note some of the submitted information is not responsive to the instant request because it is not a report that includes the names of either of the specified individuals. The city need not release this nonresponsive information, which we have marked, 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

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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. See Gov't Code § 552.147(b).

Code § 552.101. Section 552.101 encompasses the doctrine of common-law privacy, which protects information if it (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 established. *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. 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 that refers to an individual solely as a victim, witness, or involved person does not implicate the privacy interest of the individual and may not be withheld under section 552.101 on that basis.

The present request requires the city to compile unspecified law enforcement records concerning the named individual who is not the requestor, thus implicating this individual's right to privacy. Therefore, to the extent the city maintains law enforcement records depicting the named individual other than the requestor as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted information that does not depict the named individual as a suspect, arrestee, or criminal defendant. This information does not constitute a compilation of the individual's criminal history and the information may not be withheld under section 552.101 in conjunction with common-law privacy. Therefore, we will address your arguments against disclosure of this information.

You assert that the information at issue contains financial information and criminal history information that is confidential under common-law privacy. The two-prong test for common-law privacy was discussed above. *See Indus. Found.*, 540 S.W.2d at 681-82. This office has found that personal financial information not relating to the financial transaction between an individual and a governmental body is excepted from required public disclosure under common-law privacy. *See Open Records Decision Nos. 600 (1992), 545 (1990)*. Also, as noted above, a compilation of an individual's criminal history is highly embarrassing information, the publication of which would be highly objectionable to a reasonable person. *See Reporters Comm.*, 489 U.S. at 764. We note, however, that records relating to routine traffic violations are not considered criminal history record information. *Cf. Gov't Code § 411.082(2)(B)* (criminal history record information does not include driving record information). Upon review, we agree the information you have marked in red and green is highly intimate and embarrassing and not of legitimate public concern. Thus,

the city must withhold this marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

You claim section 552.130 of the Government Code for portions of the remaining information. Section 552.130 provides 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. Gov't Code § 552.130(a)(1), (2). We note the you have redacted driver's license and license plate numbers from the information at issue.<sup>2</sup> Upon review, we find portions of the information at issue consist of Texas motor vehicle record information. Thus, the city must withhold the information you have marked in yellow, as well as the additional Texas license plate type information we have marked, under section 552.130 of the Government Code.

In summary: (1) to the extent the city maintains law enforcement records depicting the named individual other than the requestor as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy; (2) the city must withhold the information you have marked in red and green under section 552.101 of the Government Code in conjunction with common-law privacy; and (3) the city must withhold the information you have marked in yellow and the additional information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.<sup>3</sup>

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,

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<sup>2</sup>We 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 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.

<sup>3</sup>We note the requestor has a right of access under section 552.023 to some of the information being released. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual asks governmental body to provide him with information concerning himself). Because such information is confidential with respect to the general public, if the city receives another request for this information from an individual other than this requestor, the city must again seek a ruling from this office.

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,

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/bs

Ref: ID# 400071

Enc. Submitted documents

c: Requestor  
(w/o enclosures)