



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 22, 2010

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

OR2010-19294

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# 404044 (FW PIR No. W004155).

The City of Fort Worth (the "city") received a request for all police records and calls for service involving a named individual. You state the city has redacted certain Texas motor vehicle record information under section 552.130 of the Government Code pursuant to the previous determinations issued to the city. See Gov't Code § 552.301(a); Open Records Decision No. 673 at 7-8 (2001). Further, you state you have redacted social security numbers under section 552.147 of the Government Code.¹ You claim the remaining 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 if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 satisfied. *Id.* at 681-82. A compilation of an individual's criminal history is highly embarrassing information, the publication of which

¹Section 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.

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. 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).

The present request seeks information pertaining to a named individual. We find that this request for unspecified law enforcement records implicates the named individual's right to privacy. Therefore, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy. We note, however, that you have submitted information in which the named individual is not listed as a suspect, arrestee, or criminal defendant. You have also submitted information that relates to routine traffic violations. This information is not part of a criminal history compilation and thus does not implicate the individual's right to privacy. Accordingly, we will address your arguments for this information.

Common-law privacy also protects the types of information considered highly intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation*, including 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. *See Indus. Found.*, 540 S.W.2d at 683. We note this office has also found some kinds of medical information or information indicating disabilities or specific illnesses are excepted from required public disclosure under 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). Upon review, we find the information we marked is highly intimate or embarrassing and of no legitimate public interest. Accordingly, the city must withhold the marked information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. However, you have failed to demonstrate how any of the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, none of the remaining information you have marked is confidential under section 552.101 in conjunction with common-law privacy, and it may not be withheld on that basis.

We note some of the remaining information is subject to section 552.130 of the Government Code.² Section 552.130 of the Government Code excepts from disclosure "information

²The 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).

[that] relates to. . . a motor vehicle title or registration issued by an agency of this state[.]” Gov’t Code § 552.130(a)(2). Accordingly, the city must withhold the information we have marked under section 552.130 of the Government Code.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy and section 552.130 of the Government Code. The remaining 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, 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,



Paige Lay
Assistant Attorney General
Open Records Division

PL/eb

Ref: ID# 404044

Enc. Submitted documents

cc: Requestor
(w/o enclosures)