



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 17, 2011

Mr. C. Patrick Phillips
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, 3rd Floor
Fort Worth, Texas 76102

OR2011-02474

Dear Mr. Phillips:

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# 409462 (Fort Worth PIR No. W005348).

The City of Fort Worth (the "city") received a request for all records involving a named individual, including those related to three specified incidents. You state the city will release to the requestor the records pertaining to the three specified incidents. You claim 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 satisfied. *Id.* at 681-82. 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.

The present request, in part, seeks all of the city's records involving a named individual. This part of the request requires the city to compile the named individual's criminal history and thus implicates the named individual's right to privacy. However, in addition to the cases specified in the request, the requestor submitted a document containing a list of case numbers involving the named individual as defendant. Because these cases have been specified by the requestor, we find the release of information pertaining to these case numbers does not implicate the named individual's privacy interests. The city informs this office it can correlate one such case number with report number 07-42191, but has not been able to correlate the remaining case numbers with city records. Consequently, report number 07-42191 may not be withheld on the basis of common-law privacy. However, to the extent the city maintains other law enforcement records that depict the named individual 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. As you raise no other exceptions to disclosure, report number 07-42191 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,



Bob Davis
Assistant Attorney General
Open Records Division

RSD/tf

¹You state the city has redacted Texas driver's license numbers in report number 07-42191 under section 552.130 of the Government Code pursuant to Open Records Decision No. 684 (2009), which is a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 552.130, without the necessity of requesting an attorney general decision.

Ref: ID# 409462

Enc. Submitted documents

c: Requestor
(w/o enclosures)