



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 9, 2011

Ms. Martha T. Williams
Olson & Olson, L.L.P.
Wortham Tower, Suite 600
2727 Allen Parkway
Houston, Texas 77019

OR2011-08236

Dear Ms. Williams:

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# 420345.

The Cleveland Police Department (the "department"), which you represent, received a request for the criminal histories of fourteen named individuals. You claim the requested information is excepted from disclosure under sections 552.101, 552.103, 552.107, and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note you have submitted information that is not responsive to the request. This decision does not address the public availability of the non-responsive information and that information need not be released in response to the present request.

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, 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. 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) (finding significant privacy interest in compilation of

individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). Moreover, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note 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).

The requestor seeks the named individuals' criminal histories. This request requires the department to compile unspecified law enforcement records concerning these individuals, thereby implicating their rights to privacy. Accordingly, to the extent the department maintains law enforcement records depicting the named individuals as arrestees, suspects, or criminal defendants, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.¹

In summary, the department need not release the non-responsive information we marked. To the extent the department maintains law enforcement records depicting the named individuals as arrestees, suspects, or criminal defendants, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Kenneth Leland Conyer
Assistant Attorney General
Open Records Division

KLC/eb

¹As our ruling for this information is dispositive, we need not address your remaining argument against disclosure.

Ref: ID# 420345

Enc. Submitted documents

c: Requestor
(w/o enclosures)