



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 28, 2011

Ms. Tiffany Bull  
Assistant City Attorney  
Arlington Police Department  
P.O. Box 1065  
Arlington, Texas 76004-1065

OR2011-10860

Dear Ms. Bull:

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# 425271 (Arlington reference No. 4015-051011).

The Arlington Police Department (the "department") received a request for information related to a named individual, including two specified reports. You claim the requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the two specified reports were the subject of a previous request for information, in response to which this office issued Open Records Letter No. 2010-05142 (2010). In this ruling, we concluded that, with the exception of basic information, the department may withhold the information you have marked as Exhibit C under section 552.108(a)(1) of the Government Code. We have no indication the law, facts, and circumstances on which Open Records Letter No. 2010-05142 was based have changed. Accordingly, with regard to Exhibit C, we conclude the department may continue to rely on Open Records Letter No. 2010-05142 as a previous determination and withhold or release Exhibit C in accordance with this ruling.<sup>1</sup> See Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first

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<sup>1</sup>As our ruling is dispositive, we need not address your remaining argument against disclosure of this information.

type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure).

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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 demonstrated. *See id.* at 681-82. A compilation of an individual’s criminal history record information 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). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. The present request, in part, requires the department to compile unspecified records concerning the individual at issue. We find this request for unspecified law enforcement records implicates the individual’s right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, it must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, the department may continue to rely on Open Records Letter No. 2010-05142 as a previous determination and withhold or release Exhibit C in accordance with this ruling. To the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, it must withhold any 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](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,

A handwritten signature in black ink, appearing to read 'TW/dls', written in a cursive style.

Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/dls

Ref: ID# 425271

Enc. Submitted documents

c: Requestor  
(w/o enclosures)