



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 8, 2011

Mr. Peter G. Smith  
City Attorney  
City of Richardson  
P.O. Box 831078  
Richardson, Texas 75083-1078

OR2011-16390

Dear Mr. Smith:

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# 435621 (Richardson File Nos. 11-638 and 11-647).

The City of Richardson (the "city") received two requests from the same requestor for information pertaining to three named individuals, a specified address, and five specified incidents over a specified time period. You state the city has released some of the requested information. You claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions 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. This section encompasses the doctrine of common-law privacy. Common-law privacy 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). The type of information considered intimate or embarrassing by the Texas Supreme Court in *Industrial Foundation* included 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. *Id.* at 683. 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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

Upon review, we find the information you have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the city must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.<sup>1</sup>

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state the information you have indicated relates to a concluded case that did not result in a conviction or deferred adjudication. Based on your representations and our review, we conclude section 552.108(a)(2) is applicable to the information at issue.

Section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information made public by *Houston Chronicle*). We note you seek to withhold under section 552.108(a)(2) all of the narrative portion of report number 11-077846. Consequently, the information being released does not contain information sufficient to satisfy the requirement that a "detailed description of the offense" be released as basic information. *See* ORD 127. Thus, with the exception of basic information, which must include a detailed description of the offense in report number 11-077846, the city may withhold the information you have indicated pursuant to section 552.108(a)(2) of the Government Code.

You state the city has redacted driver's license numbers and a license plate under section 552.130 of the Government Code pursuant to the previous determination issued by this office in Open Records Decision No. 684 (2009). Open Records Decision No. 684 is

---

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

a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. However, on September 1, 2011, the Texas legislature amended section 552.130 to allow a governmental body to redact the information described in subsections 552.130(a)(1) and (a)(3) without the necessity of seeking a decision from the attorney general. *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See* Act of May 30, 2011, 82nd Leg., R.S., S.B. 602, § 22 (to be codified at Gov't Code § 552.130(d), (e)). Thus, the statutory amendments to section 552.130 of the Government Code supercede Open Records Decision No. 684 on September 1, 2011. Therefore, a governmental body may only redact information subject to subsections 552.130(a)(1) and (a)(3) in accordance with section 552.130, not Open Records Decision No. 684. Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle operator's license or driver's license issued by an agency of this state or another state or country. Act of May 24, 2011, 82nd Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130(a)(1)). Upon review, we find the motor vehicle record information you have redacted and marked generally falls within the scope of section 552.130. However, section 552.130 protects personal privacy. Accordingly, the requestor has a right of access to her own driver's license number and license plate number, which we have marked for release, under section 552.023 of the Government Code. *See* Gov't Code § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on ground that information is considered confidential by privacy principles); *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated individuals request information concerning themselves). However, the city must withhold the remaining driver's license number you have redacted and the motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code.

In summary, the city must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, the city may withhold the information you have indicated pursuant to section 552.108(a)(2) of the Government Code. The city must withhold the remaining driver's license number you have redacted and the motor vehicle record information you have marked, as well as the information we have marked, under section 552.130 of the Government Code. The remaining information must be released.<sup>2</sup>

---

<sup>2</sup>We note that the information being released contains confidential information to which the requestor has a right of access. *See* Gov't Code § 552.023(a); ORD 481. Thus, if the city receives another request for this particular information from a different requestor, then the city should again seek a decision from this office.

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,



Jennifer Luttrall  
Assistant Attorney General  
Open Records Division

JL/dls

Ref: ID# 435621

Enc. Submitted documents

c: Requestor  
(w/o enclosures)