



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 22, 2011

Ms. Susan Camp-Lee  
Sheets & Crossfield, P.C.  
309 East Main Street  
Round Rock, Texas 78664-5246

OR2011-17292

Dear Ms. Camp-Lee:

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# 437353.

The Round Rock Police Department (the "department"), which you represent, received a request for all information pertaining to the requestor, other named individuals, specified addresses, and a specified vehicle. You claim the submitted information is excepted from disclosure under sections 552.101 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. 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. 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. 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). We further find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. You assert that the present request requires the department to compile the criminal history of the requestor's ex-husband. After reviewing the request and the submitted information, however, we find the requestor is seeking specific reports involving disputes between herself and her ex-husband. Accordingly, we find the information at issue does not constitute a criminal history compilation, and may not be withheld under section 552.101 on that basis.

We note common-law privacy also protects other types of information. The type of information considered intimate and 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. 540 S.W.2d at 683. This office has also found that personal financial information relating only to an individual ordinarily satisfies the first requirement of the test for common-law privacy, but that there is a legitimate public interest in the essential facts about a financial transaction between an individual and a governmental body. *See* Open Records Decision No. 600 (1992) (finding personal financial information to include choice of particular insurance carrier). Upon review, we find the information we have marked is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold the information we have marked pursuant to section 552.101 of the Government Code in conjunction with common-law privacy. However, we note the remaining information you seek to withhold under section 552.101 in conjunction with common-law privacy does not constitute personal financial information, and may not be withheld on this basis.

Section 552.130 of the Government Code exempts from public disclosure information relating to a driver's license or motor vehicle title or registration issued by an agency of this state or another state or country. Act of May 24, 2011, 82<sup>nd</sup> Leg., R.S., S.B. 1638, § 4 (to be codified as an amendment to Gov't Code § 552.130). Thus, the information you have marked and the additional information we have marked in the submitted report is subject to section 552.130. We note, however, a portion of the information you have marked belongs to the requestor's spouse, and the requestor in this instance may be acting as her spouse's authorized representative. Under section 552.023 of the Government Code, a person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests. *See* Gov't Code § 552.023(a). Therefore, because section 552.130 is based on privacy principles, if the requestor is acting as her spouse's authorized representative, then she has a right of access under section 552.023 to her spouse's driver's license information. In such case, the marked information pertaining to the requestor's spouse may not be withheld from her under section 552.130. However, if the requestor is not acting as the authorized representative of her spouse, then the department must withhold the information pertaining to her spouse

under section 552.130 of the Government Code. In either case, the department must withhold the remaining information you have marked, as well as the additional information we have marked, under section 552.130 of the Government Code.

Finally, we note that portions of the remaining information are subject to section 552.136 of the Government Code.<sup>1</sup> Section 552.136 states, “Notwithstanding any other provision of this chapter, a credit card, debit card, charge card, or access device number that is collected, assembled, or maintained by or for a governmental body is confidential.” Gov’t Code § 552.136(b); *see also id.* § 552.136(a) (defining “access device”). This office has determined an insurance policy number is an access device for the purposes of section 552.136. Accordingly, the department must withhold the insurance policy numbers we have marked under section 552.136.

In summary, the department must withhold the information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information it has marked, as well as the information we have marked under section 552.130 of the Government Code. However, the department may not withhold the information pertaining to the requestor’s spouse under section 552.130 of the Government Code if the requestor is acting as the authorized representative of her spouse. The city must withhold the information we have marked under section 552.136 of the Government Code. The remaining information must be released.<sup>2</sup>

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

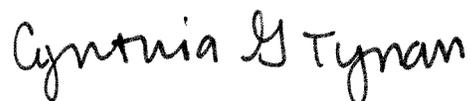
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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>2</sup>We note the requestor has a special right of access under section 552.023 of the Government Code to some of the information being released in this instance. *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); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Therefore, if the department receives another request for this information from a different requestor, the department must again seek a ruling from this office.

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 that reads "Cynthia G. Tynan". The signature is written in a cursive style with a large initial "C".

Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/em

Ref: ID# 437353

Enc. Submitted documents

c: Requestor  
(w/o enclosures)