



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 20, 2012

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

OR2012-00981

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# 442865.

The Round Rock Police Department (the "department"), which you represent, received two requests from different requestors for four specified reports, and all other information pertaining to a named individual, including audio and video recordings.<sup>1</sup> The first requestor also seeks six additional specified reports. We note you have redacted social security numbers under section 552.147(b) of the Government Code and insurance policy numbers under section 552.136(c) of the Government Code.<sup>2</sup> 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.

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<sup>1</sup>You inform us the department sought and received clarification of the second request. See Gov't Code § 552.222(b) (providing that if request for information is unclear, governmental body may ask requestor to clarify the request); see also *City of Dallas v. Abbott*, 304 S.W.3d 380, 387 (Tex. 2010) (holding that when a governmental entity, acting in good faith, requests clarification or narrowing of an unclear or over broad request for public information, the ten-day period to request an attorney general ruling is measured from the date the request is clarified or narrowed).

<sup>2</sup>Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office. See Gov't Code § 552.147(b). We note on September 1, 2011, the Texas legislature amended section 552.136 of the Government Code to allow a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. See *id.* § 552.136(c)).

Initially, we note you have not submitted information responsive to all the specified reports listed in the first request. You have not submitted reports 11-0826008, 03-2010-1, 03-2011-1, 04-4759-2, 11-05438-2, or 11-06971-3. To the extent information responsive to this portion of the first request existed on the date the department received the request, we assume you have released it. If you have not released any such information, you must do so at this time. *See* Gov't Code §§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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. We note, however, that records relating to routine traffic violations are not considered criminal history information. *See* Gov't Code § 411.082(2)(B) (criminal history record information does not include driving record information).

You assert that the present requests require the department to compile the criminal history of the named individual. The present requests require the department, in part, to compile unspecified law enforcement records concerning the individual named in the requests, thus implicating the named individual's right to privacy. Therefore, except for the incident reports specified in the requests, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note, however, you have submitted information relating to the incident reports specified in the requests, as well as information which does not depict the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual. Thus, we will consider your claims under sections 552.101 and 552.130 for this information.

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). We have marked, as well as indicated on the submitted audio and video recordings, information which is highly intimate or embarrassing and not of legitimate public concern. Therefore, the department must withhold this information pursuant to section 552.101 of the Government Code in conjunction with common-law privacy.

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. Gov't Code § 552.130. Upon review, with the exception of the information we have marked for release, the department must withhold the information you have marked, as well as the additional information we have marked and indicated on the submitted audio and video recordings, under section 552.130. However, we note the first requestor has a right of access to her own driver's license number, which you have highlighted in pink, pursuant to section 552.023 of the Government Code. *See id.* § 552.023(b) (governmental body may not deny access to person to whom information relates or person's agent on grounds 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). Accordingly, the department may not withhold this information from the first requestor.

In summary, except for the incident reports specified in the requests, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information we have marked, as well as the information we have indicated on the submitted audio and video recordings, under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the information we have marked for release, the department must withhold the information it has marked, as well as the information we have marked and indicated on the submitted audio and video recordings, under section 552.130 of the Government Code. The remaining information must be released.<sup>3</sup>

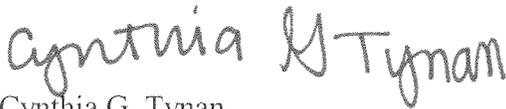
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<sup>3</sup>We note the remaining information social security numbers. As previously noted, section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. Gov't Code § 552.147(b). We also note the first 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 id.* § 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); ORD 481 at 4 (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.

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 that reads "Cynthia G. Tynan". The signature is written in a cursive, slightly slanted style.

Cynthia G. Tynan  
Assistant Attorney General  
Open Records Division

CGT/em

Ref: ID# 442865

Enc. Submitted documents

c: Requestor  
(w/o enclosures)