



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

May 2, 2012

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2012-06368

Dear Ms. Quinn:

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# 452357 (Reference Number 12-353).

The City of Cedar Park (the "city") received a request for all police, animal control, and code enforcement reports at two specified addresses between a specified time period.¹ You state you will release some information to the requestor. You state you will redact certain information pursuant to Open Records Decision No. 684 (2009)² and sections 552.130,³

¹You indicate the city sought and received clarification of the information requested. *See* Gov't Code § 552.222 (providing that if request for information is unclear or overly broad, governmental body may ask requestor to clarify or narrow the request).

²This office issued Open Records Decision No. 684, a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

³Section 552.130(c) of the Government Code authorizes a governmental body to redact from the requested information it discloses, without the necessity of requesting a decision from this office, a motor vehicle operator's or driver's license or permit issued by an agency of this state, or another state or country, and a personal identification document issued by an agency of this state, or another state or country, or a local agency authorized to issue an identification document. Gov't Code § 552.130(c) (governmental body may redact information described by subsections 552.130(a)(1) and (3) from any information the governmental body discloses without necessity of requesting decision from attorney general); *see id.* (entitling requestor to appeal governmental body's decision to withhold information pursuant to section 552.130(c) to attorney general); *id.* (requiring governmental body that withholds information pursuant to section 552.130(c) to provide notice to requestor).

552.136,⁴ and 552.147⁵ of the Government Code. You claim that 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. This section 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. 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.

You assert the present request requires the city to compile unspecified law enforcement records concerning an individual. We note, however, the request is for information pertaining to two specified addresses. Thus, we find this request does not require the city to compile an individual’s criminal history and does not implicate the privacy interests of any individual. Accordingly, the city may not withhold the submitted information as a criminal history compilation under section 552.101 in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Section 58.007 provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise,

⁴Section 552.136(c) of the Government Code authorizes a governmental body to redact from the requested information it discloses, without the necessity of requesting a decision from this office, a credit card, debit card, charge card, or access device number. Gov’t Code § 552.136(c) (governmental body may redact information described by subsection 552.136(b) from any information the governmental body discloses without necessity of requesting decision from attorney general); *see id.* (entitling requestor to appeal governmental body’s decision to withhold information pursuant to section 552.136(c) to attorney general); *id.* (requiring governmental body that withholds information pursuant to section 552.136(c) to provide notice to requestor).

⁵We note 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).

concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Fam. Code § 58.007(c). Juvenile law enforcement records relating to delinquent conduct that occurred on or after September 1, 1997 are confidential under section 58.007(c). *See id.* § 51.03 (defining “delinquent conduct” and “conduct indicating a need for supervision”). For purposes of section 58.007(c), child means a person who is ten years of age or older and under seventeen years of age. *See id.* § 51.02(2). Upon review, we agree that Exhibit C consists of law enforcement records that involve juvenile delinquent conduct and conduct indicating a need for supervision that occurred after September 1, 1997. Therefore, we conclude the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code.⁶

As previously discussed, section 552.101 of the Government Code encompasses the common-law right of privacy, which protects information that is highly intimate or embarrassing and is not of legitimate concern to the public. *Indus. Found.*, 540 S.W.2d at 685. 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. *Id.* at 683. This office has found that personal financial information not relating to a financial transaction between an individual and a governmental body is generally intimate or embarrassing. *See generally* Open Records Decision Nos. 600 at 9-10 (1992), 545 (1990), 373. In addition, information which either identifies or tends to identify a victim of sexual assault or other sex-related offense must be withheld from public disclosure under common-law privacy. Open Records Decision Nos. 393 at 2 (1983), 339 (1982). Upon our review, we find the information you have marked and the additional information we have marked is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city must withhold the marked information under section 552.101 of the Government Code in conjunction with common-law privacy.

⁶As our ruling is dispositive, we need not address your remaining arguments against disclosure for this information.

Section 552.130 of the Government Code provides that information relating to a motor vehicle title or registration issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(2). The city must withhold the vehicle identification numbers you have marked under section 552.130 of the Government Code.

In summary, the city must withhold Exhibit C under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The city must withhold the information you have marked and the additional information we have marked under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the vehicle identification numbers you have marked under section 552.130 of the Government Code. The remaining information must be released.

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,



Nneka Kanu
Assistant Attorney General
Open Records Division

NK/em

Ref: ID# 452357

Enc. Submitted documents

cc: Requestor
(w/o enclosures)