



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 6, 2012

Ms. Cheryl K. Byles  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2012-17749

Dear Ms. Byles:

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# 470061 (City of Fort Worth PIR No. W019465).

The City of Fort Worth (the "city") received a request for reports where the requestor called about her neighbors harassing her and her family, as well as all other information involving the named residents of a specified address. You state the city has released some of the requested information but claim the submitted information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception 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

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<sup>1</sup>You state the city has redacted the originating telephone number and address of a 9-1-1 caller furnished by a service supplier established under chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code in accordance with the previous determinations issued to the city in Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011).

(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) (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 requestor, in part, asks for information held by the city concerning named individuals. Therefore, to the extent the city maintains unspecified law enforcement records depicting any of these named individuals as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy. However, the requestor also asks for information pertaining to incidents where the requestor made calls about her neighbors harassing her and her family. Because the requestor specifically asks for this information, it is not part of a compilation of any of the individuals' criminal history and the city may not withhold it under section 552.101 on that ground.

Section 552.101 of the Government Code also encompasses information protected by other statutes, including section 58.007 of the Family Code. Section 58.007(c) reads as follows:

Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, 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). Upon review, we find some of the specifically requested documents involve alleged juvenile delinquent conduct occurring after September 1, 1997. *See id.* §§ 51.02(2) (for purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age), 51.03(a) (defining "delinquent conduct" for purposes of section 58.007). None of the exceptions in section 58.007 appears to apply. Therefore, the city must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family

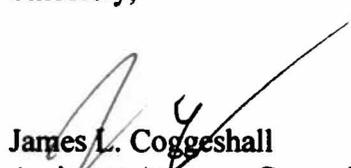
Code. However, you have not established the remaining information at issue involves alleged juvenile delinquent conduct occurring after September 1, 1997. Therefore, none of the remaining information is confidential under section 58.007, and the city may not withhold it from release under section 552.101 on that ground.

To conclude, the city must withhold any unspecified law enforcement records depicting any of the named individuals as a suspect, arrestee, or criminal defendant under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the information we have marked under section 552.101 of the Government Code in conjunction with section 58.007(c) of the Family Code. The city must release the remaining information to the requestor.<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 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,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tch

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<sup>2</sup>We note the information to be released contains the requestor's social security and driver's license numbers. The requestor has a right of access to this information under section 552.023 of the Government Code. See Gov't Code § 552.023(a); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). If the city receives a request for this information from a different requestor, sections 552.130(c) and 552.147(b) of the Government Code authorize a governmental body to redact, without the necessity of requesting a decision from this office, the copy of the requestor's social security and driver's license numbers, respectively. See Gov't Code §§ 552.130(c)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor), 552.147(b).

Ref: ID# 470061

Enc. Submitted documents

c: Requestor  
(w/o enclosures)