



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 20, 2012

Mr. Stephen A. Cumbie
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2012-20621

Dear Mr. Cumbie:

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# 474416 (PIR No. W020555).

The City of Fort Worth (the "city") received a request for all calls to a specified address in a specified period of time. You state the city will release some of the requested information to the requestor. You state the city will redact the telephone numbers and addresses of 9-1-1 callers pursuant to Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011).¹ You state you will redact social security numbers of living individuals under section 552.147 of the Government Code.² You further state the city will redact certain motor vehicle record

¹Open Records Letter Nos. 2011-15641 and 2011-15956 are previous determinations issued to the city authorizing the city to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the city by a service supplier established in accordance with 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, without requesting a decision from this office. *See* Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code).

²Section 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 an attorney general decision under the Act. *See* Gov't Code § 552.147(b).

information pursuant to section 552.130(c) of the Government Code.³ You claim that the submitted information is excepted from disclosure under section 552.101 of the Government Code. 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 if it (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). Furthermore, we find that a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We note, however, records relating to routine traffic violations are not considered criminal history information. *Cf. Gov’t Code § 411.082(2)(B)* (criminal history record information does not include driving record information). Although we understand you to argue that the present request requires the city to compile an individual’s criminal history, the request is for information pertaining to a specified address, not all criminal records involving a person. Therefore, the city may not withhold any portion of the requested information as a compilation of a private citizen’s criminal history.

We note common-law privacy also protects other types of information. The types 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. *See* 540 S.W.2d 668, 683. In this instance, although you seek to withhold the submitted information in its entirety, you have not demonstrated, nor does it otherwise appear, that this is a situation where the entire information at issue must be withheld on the basis of common-law privacy. However, we agree portions of the submitted information are highly embarrassing and not of legitimate

³Section 552.130(c) of the Government Code authorizes a governmental body to redact the information described in subsections 552.130(a)(1) and (3) without the necessity of requesting a decision from this office. *See* Gov’t Code § 552.130(c); *see also id.* § 552.130(d)-(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 section 552.130(c) must provide notice to requestor).

public interest. Accordingly, the city must withhold the information you have marked in the submitted documents, in addition to the information we have marked, under section 552.101 in conjunction with common-law privacy. The city has failed to demonstrate, however, how the remaining information is highly intimate or embarrassing and not of legitimate public interest. Therefore, the city may not withhold any portion of the remaining information under section 552.101 in conjunction with common-law privacy. The city must release the remaining information.

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,



Jeffrey W. Giles
Assistant Attorney General
Open Records Division

JWG/dls

Ref: ID# 474416

Enc. Submitted documents

c: Requestor
(w/o enclosures)