



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 7, 2013

Mr. Mark G. Mann
Assistant City Attorney
City of Garland
P.O. Box 469002
Garland, Texas 75046-9002

OR2013-09570

Dear Mr. Mann:

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# 490324 (GCA# 13-0224).

The Garland Police Department (the "department") received a request for all reports involving two named individuals during a specified period, including any 9-1-1 calls involving one of the individuals. You claim 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 established. *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 courthouses files and local police stations and compiled summary of information and noted that individual has

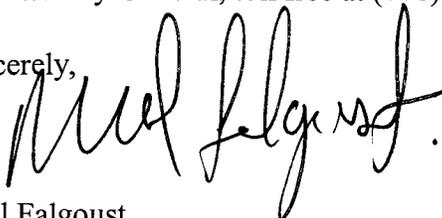
significant privacy interest in compilation of one's criminal history). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. Upon review, we find a portion of the request requires the department to compile unspecified criminal history records pertaining to one of the named individuals. Therefore, to the extent the department maintains law enforcement records depicting this individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 in conjunction with common-law privacy. However, you have submitted information that does not involve either of the named individuals as a suspect, arrestee, or criminal defendant. Therefore, the department may not withhold that information under section 552.101 of the Government Code on the basis that it is a compilation of an individual's criminal history.

Common-law privacy also protects information that either identifies or tends to identify a victim of sexual assault or other sex-related offense. *See* Open Records Decision Nos. 440 (1986), 393 (1983), 339 (1982). However, a governmental body is required to withhold an entire report when identifying information is inextricably intertwined with other releasable information or when the requestor knows the identity of the alleged victim. *See* Open Records Decision Nos. 393, 339; *see also* ORD 440 (detailed descriptions of serious sexual offenses must be withheld). Upon review, we find the requestor knows the identity of a sexual assault victim. Accordingly, in order to protect the individual's privacy, the department must withhold the entire report we marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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,



Neal Falgoust
Assistant Attorney General
Open Records Division

NF/ag

Ref: ID# 490324

Enc. Submitted documents

c: Requestor
(w/o enclosures)