



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 3, 2013

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

OR2013-17287

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# 501285 (City Ref. No. 13-832).

The Cedar Park Police Department (the "department") received a request for information pertaining to the requestor's client and another named individual since February of 2010, including specified calls for service. You state the department does not have some of the requested information.<sup>1</sup> You inform us the department will make some of the requested information available to the requestor but claim some of the submitted information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the claimed exceptions 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>The Act does not require a governmental body to disclose information that did not exist when the request for information was received. *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266 (Tex. App.—San Antonio 1978, writ dismissed); Open Records Decision No. 452 at 3 (1986).

(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. However, information relating to routine traffic violations is not excepted from release under section 552.101 in conjunction with common-law privacy. *Cf. Gov't Code* § 411.082(2)(B).

The requestor asks for all information held by the department concerning the requestor's client and a named individual. The requestor has a right of access to her client's private information. *See Gov't Code* § 552.023(a) (“[a] person or a person's authorized representative has a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from public disclosure by laws intended to protect that person's privacy interests”); Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individuals request information concerning themselves). Nevertheless, to the extent the department maintains any unspecified law enforcement records depicting the other named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. However, the requestor also asks for information pertaining to specific incidents. Because the requestor specifically asks for this information, it is not part of a compilation of the named individual's criminal history and may not be withheld on that basis. In addition, you have submitted documents that do not list the other named individual as a suspect, arrestee, or criminal defendant. Therefore, this information does not constitute part of a criminal history compilation, and the department may not withhold it under section 552.101 on that ground.

Common-law privacy also protects the types of information that the Texas Supreme Court delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See Open Records Decision No. 455* (1987). Upon review, we find some of the remaining information satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold this information, which we have indicated, under section 552.101 of the Government Code in conjunction with common-law privacy.

You assert Exhibit D is excepted from disclosure under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. A governmental body claiming section 552.108(a)(2) must demonstrate the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or

deferred adjudication. You state Exhibit D pertains to a case that concluded in a result other than conviction or deferred adjudication. Therefore, we agree the department may withhold Exhibit D under section 552.108(a)(2) of the Government Code.

Section 552.130(a) provides the following:

Information is excepted from the requirements of Section 552.021 if the information relates to:

- (1) a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country;
- (2) a motor vehicle title or registration issued by an agency of this state or another state or country; or
- (3) 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(a). The requestor has a right of access to her client's motor vehicle record information pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a). However, we agree the department must withhold the remaining motor vehicle record information you have marked under section 552.130.

Section 552.147(a) of the Government Code provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Gov't Code § 552.147(a). The requestor has a right of access to her client's social security number pursuant to section 552.023 of the Government Code. *See id.* § 552.023(a). However, the department may withhold the remaining social security numbers you have marked under section 552.147.

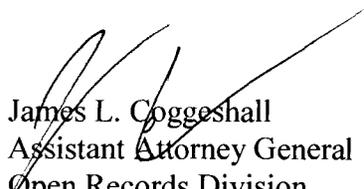
To conclude, the department must withhold any unspecified law enforcement records depicting the other named individual as a suspect, arrestee, or criminal defendant under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the information we have indicated under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold Exhibit D under section 552.108(a)(2) of the Government Code. With the exception of the information pertaining to the requestor's client, to which the requestor has a right of access under section 552.023 of the Government Code, the department must withhold the remaining information you have marked under section 552.130 of the Government Code and may withhold the remaining information you have marked under

section 552.147 of the Government Code. The department must release the remaining information.<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.texasattorneygeneral.gov/open/orl\\_ruling\\_info.shtml](http://www.texasattorneygeneral.gov/open/orl_ruling_info.shtml), 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



James L. Coggeshall  
Assistant Attorney General  
Open Records Division

JLC/tch

Ref: ID# 501285

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>2</sup>As discussed above, the information to be released contains motor vehicle record information, a social security number, and private information to which the requestor has a right of access under section 552.023 of the Government Code. Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. See Act of May 6, 2013, 83rd Leg., R.S., S.B. 458, § 1 (to be codified as an amendment to Gov't Code § 552.130(c)). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). See Gov't Code § 552.130(d), (e). 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). Therefore, if the department receives another request for this information, sections 552.130(c) and 552.147(b) authorize the department to redact the submitted motor vehicle record information and social security numbers without requesting another ruling from this office. However, the department must again seek a decision from this office if it receives another request for the remaining information from another requestor.