ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 17, 2013

Mr. Grant Jordan
Assistant City Attorney
City of Fort Worth
1000 Throckmorton Street, Third Floor
Fort Worth, Texas 76102

OR2013-21921

Dear Mr. Jordan:

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# 508701 (City PIR No. W029131).

The City of Fort Worth (the "city") received a request for information pertaining to two named individuals within a specified period of time. You state you have released some of the requested information.[1] You claim any additional requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

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[1]We understand the documents released have been redacted pursuant to sections 552.130(c) and 552.147(b) of the Government Code, and the previous determinations issued to the city in Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011). We note 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. 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 requesting a decision. *See id.* § 552.147(b). Open Records Letter Nos. 2011-15641 and 2011-15956 authorize the city to withhold a 911 caller's originating telephone number and address furnished 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.

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 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request requires the city to compile unspecified law enforcement records concerning the individuals named in the request, thus implicating the named individuals' rights to privacy. Although the requestor states she represents one of the named individuals, and would therefore have a right of access to any private information pertaining to this named individual pursuant to section 552.023 of the Government Code, she does not state, and we have no indication, she represents the other named individual. *See* Gov't Code § 552.023(a) (person or person's authorized representative has special right of access, beyond the right of general public, to information held by governmental body that relates to person and is protected from public disclosure by laws intended to protect person's privacy interests); Open Records Decision No. 481 at 4 (1987). Therefore, to the extent the city maintains law enforcement records depicting the other named individual as a suspect, arrestee, or criminal defendant, the city must withhold those records under section 552.101 of the Government Code in conjunction with common-law privacy.[2]

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, or call the Office of the Attorney General's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for

[2]Because our ruling is dispositive, we do not address your remaining arguments against disclosure.

providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,

Michael A. Pearle
Assistant Attorney General
Open Records Division

MAP/tch

Ref: ID# 508701

Enc. Submitted documents

c: Requestor
(w/o enclosures)