



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 2, 2014

Ms. Alexis G. Allen  
Counsel for the City of Rowlett  
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.  
500 North Akard Street, 1800 Ross Tower  
Dallas, Texas 75201

OR2014-07379

Dear Ms. Allen:

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# 521448 (NJDHS Reference No. 64907).

The City of Rowlett (the "city"), which you represent, received a request for information regarding a named individual, including specified incidents involving the requestor. You claim the requested information is excepted from disclosure under sections 552.101, 552.108 and 552.130 of the Government Code. We have considered the exceptions 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. This section encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person, and (2) 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 demonstrated. *See id.* at 681-82. A compilation of an individual's criminal history record information 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.

You assert the request seeks unspecified records pertaining to the named individual. Upon review, we find the request, in part, seeks unspecified law enforcement records pertaining to a named individual. This part of the request requires the city to compile the named individual's criminal history and implicates the named individual's right to privacy. Therefore, to the extent the city maintains unspecified law enforcement records listing the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

After reviewing the remainder of the request and the responsive information, we find the requestor is also seeking, in part, specific incident reports involving herself and the named individual. Accordingly, this portion of the request does not implicate the named individual's right to privacy, and the incident reports involving the requestor and the named individual may not be withheld under section 552.101 on the basis of the named individual's privacy interests in a compilation of his criminal history.

In addition to the specified incident reports involving the named individual and the requestor, we note you have submitted information that does not list the named individual as a suspect, arrestee, or criminal defendant. These records also do not constitute a compilation of the named individual's criminal history and may not be withheld under section 552.101 on that basis. We will, however, consider your remaining argument against disclosure of this information and the specified incident reports.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See* Gov't Code § 552.108(a)(2). 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. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state report numbers 07024335, 07035348, 07039729, 09014889, and 13029999 relate to criminal investigations that did not result in conviction or deferred adjudication. Based on these representations and our review, we agree section 552.108(a)(2) is applicable to the information at issue.

However, section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). We note basic information does not include motor vehicle record information subject to section 552.130 of the

Government Code. Thus, with the exception of the basic information, the city may withhold report numbers 07024335, 07035348, 07039729, 09014889, and 13029999 under section 552.108(a)(2) of the Government Code.<sup>1</sup>

In summary, to the extent the city maintains unspecified law enforcement records listing the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of the basic information, which must be released, the city may withhold report numbers 07024335, 07035348, 07039729, 09014889, and 13029999 under section 552.108(a)(2) of the Government Code.

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,



Kristi L. Wilkins  
Assistant Attorney General  
Open Records Division

KLW/tch

Ref: ID# 521448

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your remaining argument against its disclosure.