



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 15, 2014

Ms. Sarah Martin
Assistant City Attorney
Legal Division
Arlington Police Department
P.O. Box 1065, Mail Stop 04-0200
Arlington, Texas 76004-1065

OR2014-12206

Dear Ms. Martin:

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# 529182 (Police Dept. Reference No. 15329).

The Arlington Police Department (the "department") received a request for all records of police contact involving a named individual. 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. This section encompasses the doctrine of common-law privacy, which protects information (1) containing 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. 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. Upon review, we find the present request requires the department to compile unspecified law enforcement records concerning the named individual. Accordingly, we find the request implicates the named individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the 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. We note, however, you have submitted information which does not list the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual. Thus, this information may not be withheld under section 552.101 in conjunction with common-law privacy as a criminal history compilation.

Common-law privacy also protects the types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation*. 540 S.W.2d at 683. This office has concluded some kinds of medical information are generally highly intimate or embarrassing. See Open Records Decision No. 455 (1987). This office also has concluded personal financial information not relating to the financial transaction between an individual and a governmental body are protected by common-law privacy. See Open Records Decision Nos. 600 (1992), 545 (1990). We also understand you to argue the submitted information is excepted from disclosure in its entirety under section 552.101 in conjunction with common-law privacy. Generally, only highly intimate information implicating the privacy of an individual is withheld. We note, in certain situations where the requestor knows the identity of the individual involved, as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. However, in this case, you have not demonstrated, nor does it otherwise appear, this is a situation in which the entirety of the information at issue must be withheld on the basis of common-law privacy. Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, the department has failed to demonstrate how any of the remaining information is highly intimate or embarrassing and not of legitimate concern to the public. Therefore, no portion of the remaining information may be withheld under section 552.101 in conjunction with common-law privacy.

We note the remaining information contains information subject to section 552.130 of the Government Code, which provides information relating to a motor vehicle operator's or driver's license or permit or motor vehicle title or registration issued by an agency of this

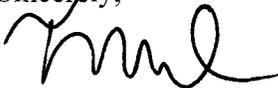
state or another state or country is excepted from public release.¹ Gov't Code § 552.130(a)(1), (2). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records depicting the 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. The department must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining information.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 providing public information under the Act may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Tim Neal
Assistant Attorney General
Open Records Division

TN/bhf

¹The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision No. 481 (1987), 480 (1987), 470 (1987).

²We note the information to be released includes an individual's social security number. 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).

Ref: ID# 529182

Enc. Submitted documents

c: Requestor
(w/o enclosures)