



KEN PAXTON  
ATTORNEY GENERAL OF TEXAS

November 10, 2016

Mr. Richard A. McCracken  
Assistant City Attorney  
Office of the City Attorney  
City of Fort Worth  
1000 Throckmorton Street, 3<sup>rd</sup> Floor  
Forth Worth, Texas 76102

OR2016-25084

Dear Mr. McCracken:

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# 634579 (CoFW PIR No. W054753).

The City of Fort Worth (the "city") received a request for fifteen specified reports, all records pertaining to four named individuals, and all records pertaining to a specified business. You inform us you have released some information to the requestor. You state the city is withholding motor vehicle record information pursuant to section 552.130(c) of the Government Code, access device numbers pursuant to section 552.136(c) of the Government Code, and social security numbers pursuant to section 552.147(b) of the Government Code.<sup>1</sup> You also state the city is withholding certain e-mail addresses pursuant to Open Records

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<sup>1</sup>Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. *See* 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 id.* § 552.130(d), (e). Section 552.136(c) of the Government Code allows a governmental body to redact the information described in section 552.136(b) without the necessity of seeking a decision from the attorney general. *See id.* § 552.136(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.136(e). *See id.* § 552.136(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. *See id.* § 552.147(b).

Decision No. 684 (2009).<sup>2</sup> You further state the city is withholding dates of birth pursuant to the previous determination issued in Open Records Letter No. 2016-00620 (2016).<sup>3</sup> You claim some of the requested 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 public disclosure “information considered to be confidential by law, either constitutional, statutory, or by judicial decision.” Gov’t Code § 552.101. This section encompasses 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 satisfied. *Id.* at 681-82. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. This office has found 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. United States 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). Furthermore, we find a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. The present request, in part, seeks all reports pertaining to four named individuals. This aspect of the request requires the city to compile the named individuals’ criminal histories and implicates the privacy of the named individuals. Therefore, to the extent the city maintains unspecified law enforcement records, other than information pertaining to the fifteen specified incidents and the specified business, listing the named individuals as suspects, arrestees, or criminal defendants, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note you have submitted documents relating to one of the incidents specified by the requestor. This information is not part of a compilation of the named individuals’ criminal histories, and it may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy on that basis. Accordingly, we will address the applicability of other exceptions to disclosure of this information.

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<sup>2</sup>Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold certain categories of information, including personal e-mail addresses under section 552.137 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>Open Records Letter No. 2016-00620 is a previous determination issued to the city authorizing it to withhold the dates of birth of public citizens under section 552.101 of the Government Code in conjunction with common-law privacy without requesting a decision from this office.

As previously noted, section 552.101 of the Government Code encompasses common-law privacy, which is subject to the two-part test discussed above. *Indus. Found.*, 540 S.W.2d at 685. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation. Id.* at 683. Upon review, we find you have not demonstrated any of the information related to the specified incident is highly intimate or embarrassing and not of legitimate public concern. Thus, none of this information may be withheld under section 552.101 of the Government Code in conjunction with common-law privacy.

In summary, to the extent the city maintains unspecified law enforcement records, other than information pertaining to the fifteen specified incidents and the specified business, listing the named individuals as suspects, arrestees, or criminal defendants, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must release the remaining information.

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,



Gerald A. Arismendez  
Assistant Attorney General  
Open Records Division

GAA/som

Ref: ID# 634579

Enc. Submitted documents

c: Requestor  
(w/o enclosures)