



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 19, 2006

Ms. Sandy Dudley  
Records Coordinator  
City of Cleburne  
P.O. Box 677  
Cleburne, Texas 76033-0677

OR2006-12361

Dear Ms. Dudley:

You ask whether certain information is subject to required public disclosure under chapter 552 of the Government Code, the Public Information Act (the "Act"). Your request was assigned ID# 263478.

The City of Cleburne (the "city") received a request for domestic/family violence records involving a named individual. You claim that the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered your claimed exception to disclosure and have reviewed the submitted information.

Initially, we note that Exhibit 2 is not responsive to the instant request. Information that is not responsive to this request need not be released. Moreover, we do not address such information in this ruling.

Section 552.101 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 (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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. 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 ones criminal history). Furthermore, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. You argue that the requestor has asked the city to compile the named individual's criminal history. After reviewing the request and the submitted documents, however, we do not believe that the requestor is seeking this person's criminal history but is instead requesting specific domestic violence reports involving herself and this individual. Accordingly, we find that the named individual's right to privacy has not been implicated by this request.

We note, however, that the records contain information that is confidential by law.<sup>1</sup> Section 552.130 of the Government Code provides in part:

(a) 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]
- (2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a). The purpose of section 552.130 is to protect an individual's privacy interests. Therefore, the requestor has a special right of access to her driver's license number. *See* Gov't Code § 552.023(b) (providing that person or person's authorized representative has special right of access to records that contain information relating to that person that are protected from public disclosure by laws intended to protect that person's privacy interests). Section 552.130 does not protect out-of-state motor vehicle record information. We have reviewed the submitted reports and marked the Texas driver's license number that must be withheld under section 552.130.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *See* Gov't Code § 552.147. Like section 552.130, the purpose of section 552.147 is to protect an individual's

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<sup>1</sup> The Office of the Attorney General will raise mandatory exceptions like sections 552.130 and 552.147 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

privacy interests. Accordingly, the city must only withhold the marked social security number under section 552.147.<sup>2</sup>

In summary, we have marked the driver's license number and social security number that must be withheld from disclosure under sections 552.130 and 552.147. The remaining information must be released to this requestor.<sup>3</sup>

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

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<sup>2</sup> We note that 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.

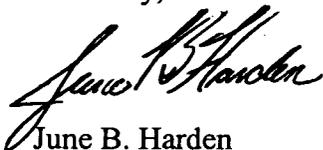
<sup>3</sup> The submitted documents contain information relating to the requestor that is confidential with respect to the general public. *See* Gov't Code § 552.023; *see also* Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning the person himself or herself). Thus, in the event the city receives another request for this information from someone other than this requestor or her representative, the city must ask this office for a decision whether the information is subject to public disclosure.

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



June B. Harden  
Assistant Attorney General  
Open Records Division

JBH/sdk

Ref: ID# 263478

Enc: Submitted documents