



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2009

Mr. C. Patrick Phillips  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street Third Floor  
Fort Worth, Texas 76102

OR2009-04734

Dear Mr. Phillips:

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# 339318 (PIR No. 1594-09).

The City of Fort Worth (the "city") received a request for a specified police report. You claim that some of the requested information is excepted from disclosure under section 552.101 of the Government Code.<sup>1</sup> We have considered the exception you claim and reviewed the information you submitted.

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 exception encompasses common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). This office concluded in Open Records Decision No. 169 (1977) that under certain "special circumstances," common-law privacy will protect information that ordinarily would be

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<sup>1</sup>You inform us that Texas motor vehicle information has been redacted from the submitted documents pursuant to previous determinations issued to the city under section 552.130 of the Government Code. *See* Gov't Code § 552.301 (a); Open Records Decision No. 673 (2001) (previous determinations).

subject to public disclosure. *Id.* at 6-7. Such “special circumstances” encompass a very narrow set of situations. *Id.* at 6. They do not include a desire for privacy or “a generalized and speculative fear of harassment or retribution.” *Id.* “Special circumstances” do include situations in which release of the information would likely cause someone to face “an imminent threat of physical danger.” *Id.* We determine whether a request for information presents such “special circumstances” on a case-by-case basis. *Id.* at 7.

You explain that the submitted police report is related to a vice operation in which certain police officers were working in an undercover capacity. You inform us that the officers involved frequently work undercover. You contend that the release of these officers’ names and identification numbers would not only compromise their effectiveness as undercover officers but also likely expose them to an “imminent threat of physical danger.” Based on your representations, we conclude that the city must withhold the officers’ names and identification numbers, which you have marked, under section 552.101 in conjunction with common-law privacy.

This office also has determined that 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, a compilation of a private citizen’s criminal history is generally not of legitimate concern to the public. We have marked information that the city must withhold on this basis under section 552.101.

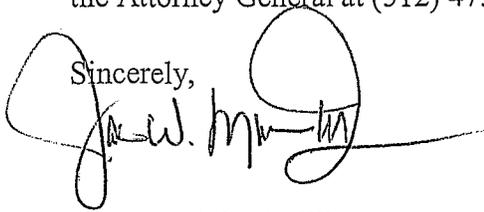
In summary, the city must withhold the information relating to the undercover officers that you have marked, as well as the information that we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy. The rest of the submitted information must be released.

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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 must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,

A handwritten signature in black ink, appearing to read "James W. Morris, III". The signature is written in a cursive style with a large, looping initial "J" and a long horizontal stroke extending to the right.

James W. Morris, III  
Assistant Attorney General  
Open Records Division

JWM/cc

Ref: ID# 339318

Enc: Submitted documents

c: Requestor  
(w/o enclosures)