



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 9, 2009

Ms. LeAnn M. Quinn, TRMC  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613

OR2009-04745

Dear Ms. Quinn:

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# 339699.

The City of Cedar Park (the "city") received a request for any information pertaining to a named individual from a specified time period. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim.

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. 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 one's criminal history). Furthermore, we find that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

In this instance, the requestor seeks all information involving a named individual from a specified time period. We find that this request, in part, requires the city to compile unspecified law enforcement records concerning the named individual. Such a request implicates the named individual's right to privacy. Thus, to the extent the city maintains law enforcement records depicting the named individual as either a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

We note you have submitted police report No. 0405-0069, which does not list the named individual as a suspect, arrestee, or criminal defendant. You assert this police report and its accompanying CAD report are subject to section 552.108(a)(2) of the Government Code. Section 552.108(a)(2) excepts from disclosure "[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if it is information that deals with the detection, investigation, or prosecution of crime only in relation to an investigation that did not result in conviction or deferred adjudication [.]” Gov't Code § 552.108(a)(2). Section 552.108(a)(2) is applicable only if the information at issue relates to a concluded criminal case that did not result in a conviction or a deferred adjudication. A governmental body that claims an exception to disclosure under section 552.108 must reasonably explain how and why this exception is applicable to the information that the governmental body seeks to withhold. *See id.* § 552.301(e)(1)(A); *Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You have provided a representation from the city's police department stating that police report No. 0405-0069 pertains to a concluded criminal investigation that did not result in a conviction or deferred adjudication. Based on this representation, we agree that section 552.108(a)(2) is applicable to police report No. 0405-0069 and its accompanying CAD report.

We note, and you acknowledge, that section 552.108 does not except from disclosure basic information about an arrested person, an arrest, or a crime. Gov't Code § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publ'g Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). *See* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold police report No. 0405-0069 and its accompanying CAD report under section 552.108(a)(2). As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

You have also submitted six other CAD reports that do not list the named individual as a suspect, arrestee, or criminal defendant. You have marked telephone numbers within these reports under section 552.101 of the Government Code in conjunction with section 772.318

of the Health and Safety Code. Chapter 772 of the Health and Safety Code authorizes the development of local emergency communication districts. Section 772.318 is applicable to emergency 911 districts established in accordance with chapter 772 and makes the originating telephone numbers and addresses of 911 callers that are furnished by a service supplier confidential. *See* Open Records Decision No. 649 (1996). Section 772.318 applies to an emergency communication district for a county with a population of more than 20,000. You seek to withhold the telephone numbers of 911 callers. We understand that these telephone numbers were furnished by a 911 service supplier, and you indicate the city is part of an emergency communication district established under section 772.318. Thus, the city must withhold telephone numbers you marked within the CAD reports at issue under section 552.101 in conjunction with section 772.318 of the Health & Safety Code.

You have also marked information within the CAD reports at issue under section 552.130 of the Government Code, which provides in relevant part:

(a) Information is excepted from the requirement 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)(1)-(2). Upon review, we agree that the city must withhold the Texas driver's license numbers you have marked, as well as the additional number we marked, under section 552.130. However, an individual's date of birth is not information that relates to a motor vehicle operator's or driver's license or a motor vehicle title or registration. Therefore, the city may not withhold this information, which we have marked for release, under section 552.130.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. Except for basic information, the city may withhold report No. 0405-0069 and its accompanying CAD report under section 552.108(a)(2) of the Government Code. From the remaining CAD reports, the city must withhold the information it marked under section 552.101 in conjunction with section 772.318 of the Health and Safety Code. Except for the information we marked for release, the city must also withhold the information it marked, as well as the information we marked, within the remaining CAD reports under section 552.130 of the Government Code. The remaining 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,



Reg Hargrove  
Assistant Attorney General  
Open Records Division

RJH/eeg

Ref: ID# 339699

Enc. Submitted documents

c: Requestor  
(w/o enclosures)