



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 8, 2009

Mr. Jason Day
City of Royse City
P.O. Box 638
Royse City, Texas 75189

OR2009-07803

Dear Mr. Day:

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# 349846.

The City of Royse City (the "city") received a request for "[a]ny incident report" pertaining to a named individual. You claim that the requested information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions 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. Section 552.101 encompasses information made confidential by 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 demonstrated. *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) (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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information that refers to an individual solely as a victim, witness, or involved person is not private and may not be withheld under section 552.101 on that basis.

The instant request is for any police records pertaining to a specified individual. This request for unspecified law enforcement records requires the city to compile the individual's criminal history and implicates his privacy interests. Therefore, to the extent that the city maintains any information that depicts the specified individual as a suspect, arrested person, or criminal defendant, the city must withhold any such information under section 552.101 in conjunction with common-law privacy.

We note that you have submitted records that do not list the named individual as a suspect, arrestee, or defendant. This information does not implicate the privacy interests of the named individual. Thus, we will address your arguments against the disclosure of this information.

You assert that some of the submitted information is excepted under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The city must withhold the Texas motor vehicle record information that you have marked under section 552.130 of the Government Code.

In summary, to the extent that the city maintains any information that depicts the specified individual as a suspect, arrested person, or criminal defendant, the city must withhold any such information under section 552.101 in conjunction with common-law privacy. The city must withhold the Texas motor vehicle record information that you have marked under section 552.130 of the Government Code. The remaining submitted information must be released to the requestor.

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, 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 "C. Nettles". The signature is fluid and cursive, with a large initial "C" and a long, sweeping underline.

Cindy Nettles
Assistant Attorney General
Open Records Division

CN/dls

Ref: ID# 349846

Enc. Submitted documents

c: Requestor
(w/o enclosures)