



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

August 19, 2009

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

OR2009-11617

Dear Ms. Hight:

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# 353772.

The City of Cleburne (the "city") received two requests from the same requestor for all police records of criminal activity or family violence involving a specific individual from 2004 to 2009, including five specific police reports. You state you have released three police reports to the requestor. You claim that the remaining information is excepted from disclosure under sections 552.101, 552.108, 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." Section 552.101 encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *See 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 established. *Id.* at 681-2. 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. U.S. 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 public concern.

In part, the requests require the city to compile unspecified law enforcement records concerning the specific individual. We find this request for unspecified law enforcement records implicates the specific individual's right to privacy. Therefore, with the exception of the five specific police reports, to the extent the city maintains law enforcement records depicting the specific individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 in conjunction with common-law privacy.<sup>1</sup> We note, however, that information that does not portray the specific individual as a suspect, arrestee, or criminal defendant does not implicate the individual's privacy interests. Police report no. 09-02173 does not list the specific individual as a suspect, arrestee, or criminal defendant. Therefore, the city may not withhold this report under section 552.101 on this basis. As you raise no other exceptions against disclosure of this report, police report no. 09-02173 must be released.

We further note that the request for specific police reports does not implicate the individual's privacy interests, and these reports may not be withheld under section 552.101 on this basis. Therefore, we will address your remaining arguments for withholding this information. 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). You assert that portions of the information, which you have marked, in police report nos. 09-01882 and 271658 are excepted from disclosure under section 552.108(a)(2) because no charges were filed by the Cleburne Police Department, and therefore the information relates to criminal investigations that did not result in a conviction or deferred adjudication. Based on this representation, we conclude that section 552.108(a)(2) applies to the information you have marked in police report nos. 09-01882 and 271658, and the marked information may be withheld on that basis.

You have marked Texas motor vehicle record information in police report no. 09-00787. Section 552.130 of the Government Code excepts from disclosure information that "relates to ... a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state." Gov't Code § 552.130. Accordingly, the city must withhold the Texas motor vehicle record information

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<sup>1</sup> As our ruling is dispositive, we need not address your remaining arguments against disclosure of this information.

you have marked, in addition to the information we have marked, in police report no. 09-00787 under section 552.130.

In summary, with the exception of the five specifically requested police reports, to the extent the city maintains law enforcement records depicting the specific 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. The city may withhold the information you have marked in police report nos. 09-01882 and 271658 under section 552.108(a)(2). The city must withhold the information you have marked, in addition to the information we have marked, in police report no. 09-00787 under section 552.130. 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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/eeg

Ref: ID# 353772

Enc. Submitted documents

c: Requestor  
(w/o enclosures)