



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

February 7, 2013

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2013-02185

Dear Ms. Villarreal:

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# 478191 (City of Waco Ref. No. LGL 12-1889).

The City of Waco (the "city") received a request for all reports pertaining to a named individual and the requestor, and two specified addresses, including two specified incidents. You claim the submitted information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception 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 the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) 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 established. *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. 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You state the present request requires the city to compile unspecified law enforcement records concerning the named individual and implicates this individual's right to privacy. However, after reviewing the request and the submitted information, we find the requestor is seeking specific domestic violence reports involving the requestor and the named individual. Accordingly, the request does not implicate the named individual's right to privacy, and the submitted information may not be withheld on this basis. Furthermore, we find none of the submitted information is highly intimate or embarrassing and not of legitimate public interest. Accordingly, none of the submitted information may be withheld under section 552.101 in conjunction with common-law privacy.

Section 552.101 also encompasses laws that make criminal history record information ("CHRI") confidential. CHRI generated by the National Crime Information Center or by the Texas Crime Information Center is confidential under federal and state law. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 at 7 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* at 10-12. Section 411.083 of the Government Code deems confidential CHRI the Department of Public Safety ("DPS") maintains, except DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Sections 411.083(b)(1) and 411.089(a) of the Government Code authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for criminal justice purposes. *See id.* § 411.089(b)(1). Other entities specified in chapter 411 of the Government Code are entitled to obtain CHRI from DPS or another criminal justice agency; however, those entities may not release CHRI except as provided by chapter 411. *See generally id.* §§ 411.090-.127. Thus, any CHRI generated by the federal government or another state may not be made available to the requestor except in accordance with federal regulations. *See* ORD 565. Furthermore, any CHRI obtained from DPS or any other criminal justice agency must be withheld under section 552.101 of the Government Code in conjunction with Government Code chapter 411, subchapter F. Upon review, we find you have failed to demonstrate any of the submitted information constitutes CHRI for the purposes of chapter 411, and thus, none of the submitted information may be withheld under section 552.101 in conjunction with chapter 411 of the Government Code.

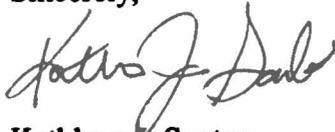
We note some of the submitted information may be subject to section 552.130 of the Government Code. Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, or a personal identification document issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1), (3). To the extent the information we have marked consists of

an operator's license, driver's license, or personal identification document issued by an agency of this state or another state or country, the city must withhold this information under section 552.130 of the Government Code. As you raise no further exception to disclosure, the remaining information must be released.¹

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, toll free at (888) 672-6787.

Sincerely,



Kathleen J. Santos
Assistant Attorney General
Open Records Division

KJS/dls

Ref: ID# 478191

Enc. Submitted documents

c: Requestor
(w/o enclosures)

¹We note the information being released contains information to which the requestor has a right of access. See Gov't Code § 552.023. Because such information may be confidential with respect to the general public, if the city receives another request for this information from a different requestor, the city must again seek a ruling from this office. We further note the information being released contains the social security number of the named individual. 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 an attorney general decision under the Act. See *id.* § 552.147(b).