



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 5, 2013

Ms. Judith N. Benton  
Assistant City Attorney  
Legal Services  
City of Waco  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2013-05489

Dear Ms. Benton:

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# 483319 (City of Waco Ref. No. LGL-13-082).

The City of Waco (the "city") received a request for all records of police activity at a specified address regarding any residents of that address, including a named individual. You inform us the city is releasing some of the requested information to the requestor. We understand the city will redact the driver's license number you have marked under section 552.130(c) of the Government Code.<sup>1</sup> You claim some of 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

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<sup>1</sup>Section 552.130(c) of the Government Code authorizes a governmental body to redact, without the necessity of requesting a decision from this office, the motor vehicle record information described in subsections 552.130(a)(1) and (a)(3). *See* Gov't Code § 552.130(c); *see also id.* § 552.130(d)-(e) (requestor may appeal governmental body's decision to withhold information under section 552.130(c) to attorney general and governmental body withholding information pursuant to section 552.130(c) must provide certain notice to requestor).

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) (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 request is for all records pertaining to a named individual and any other residents of a specified address. Thus, the present request requires the city to compile unspecified police records concerning the individuals who reside at the specified address. Therefore, to the extent the city maintains unspecified law enforcement records depicting a resident of the specified address as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

You have submitted reports that do not list a resident of the specified address as a suspect, arrestee, or criminal defendant. This information does not implicate any individual's common-law privacy concerns. Therefore, we will address your claimed exceptions for this information.

Next, we note you have marked the telephone number of a 9-1-1 caller. In Open Records Letter No. 2011-15629 (2011), this office issued a previous determination to the city authorizing the city to withhold the originating telephone number and address of a 9-1-1 caller furnished to the city by a service supplier established in accordance with chapter 772 of the Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.318 of the Health and Safety Code without requesting a decision from this office. *See Gov't Code § 552.301(a)*; Open Records Decision No. 673 (2001) (listing elements of second type of previous determination under section 552.301(a) of the Government Code). The telephone number you have marked may not be the originating telephone number of a 9-1-1 caller furnished by a service supplier, but instead may have been supplied by the caller. Any instances of the telephone number you have marked that were supplied by the caller must be released. However, to the extent the telephone number you have marked is the actual originating telephone number of the 9-1-1 caller provided by the 9-1-1 service supplier, the city must withhold it in accordance with the previous determination issued to the city in Open Records Letter No. 2011-15629.

In summary, to the extent the city maintains unspecified law enforcement records depicting a resident of the specified address as a suspect, arrestee, or criminal defendant, the city must

withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. To the extent the telephone number you have marked is the actual originating telephone number of the 9-1-1 caller provided by the 9-1-1 service supplier, the city must withhold it in accordance with the previous determination issued to the city in Open Records Letter No. 2011-15629. 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, toll free at (888) 672-6787.

Sincerely,



Kathryn R. Mattingly  
Assistant Attorney General  
Open Records Division

KRM/bhf

Ref: ID# 483319

Enc. Submitted documents

c: Requestor  
(w/o enclosures)