



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

April 17, 2013

Ms. Lillian Guillen Graham
Assistant City Attorney
City of Mesquite
P.O. Box 850137
Mesquite, Texas 75185-0137

OR2013-06271

Dear Ms. Graham:

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# 488760.

The City of Mesquite (the "city") received a request for information pertaining to six individuals and a specified address. You claim portions of the requested information are excepted from disclosure under sections 552.130 and 552.147 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."¹ Gov't Code § 552.101. This section encompasses the common-law right to 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 met. *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.

¹The Office of the Attorney General will raise a mandatory exception like section 552.101 on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

Cf. U.S. 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 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 as criminal history and may not be withheld under section 552.101 on that basis.

The present request seeks all information pertaining to named individuals. This request requires the city to compile unspecified law enforcement records concerning the named individuals, thus implicating such individuals' right to privacy. Therefore, to the extent the city maintains any law enforcement records depicting any of the named individuals 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.

We note you have submitted information which does not depict any of the named individuals as a suspect, arrestee, or criminal defendant. This information does not implicate the individuals' privacy rights. Accordingly, we will address your arguments against disclosure of this information.

Section 552.130 of the Government Code provides that information relating to a motor vehicle operator's or driver's license or permit issued by an agency of this state or another state or country is excepted from public release. Gov't Code § 552.130(a)(1). The city must withhold the driver's license numbers you have marked under section 552.130 in report numbers 02-041199 and 05-020420.

Section 552.147 of the Government Code provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147(a). Therefore, the city may withhold the social security numbers you have marked in report numbers 02-041199 and 05-020420 under section 552.147(a).²

In summary, to the extent the city maintains any law enforcement records depicting any of the named individuals 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. The city must withhold the driver's license numbers you have marked under section 552.130 of the Government Code in report numbers 02-041199 and 05-020420. The city may withhold the social security numbers you have marked in

²We note 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 a decision from this office under the Act. Gov't Code § 552.147(b).

report numbers 02-041199 and 05-020420 under section 552.147 of the Government Code. The city must release the remaining information in report numbers 02-041199 and 05-020420.

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,

A handwritten signature in cursive script that reads "Tamara H. Holland".

Tamara H. Holland
Assistant Attorney General
Open Records Division

THH/ac

Ref: ID# 488760

Enc. Submitted documents

c: Requestor
(w/o enclosures)