



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

June 26, 2014

Ms. Susan Camp-Lee
Counsel for the City of Round Rock
Sheets & Cross Field, P.C.
309 East Main Street
Round Rock, Texas 78664-5246

OR2014-10959

Dear Ms. Camp-Lee:

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# 527134 (ORR #2888).

The Round Rock Police Department (the "department"), which you represent, received a request for information pertaining to any calls referring to a named individual at a specified address, including 9-1-1 call audio recordings for a specified time period. You state the department is releasing some of the requested information. You claim the submitted 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.

We note the information we have indicated is not responsive to the instant request for information because it does not pertain to the named individual. This ruling does not address the public availability of non-responsive information, and the department is not required to release non-responsive information in response to this request.

Section 552.101 of the Government Code excepts "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 that is (1) highly intimate or embarrassing, the publication of which would be highly objectionable to a reasonable person and (2) 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 satisfied. *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) (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. We note records relating to routine traffic violations are not considered criminal history information. *Cf. Gov't Code* § 411.082 (2)(B) (criminal history record information does not include driving record information). Upon review, we find the present request requires the department to compile unspecified law enforcement records concerning the named individual. Accordingly, we find the request implicates the named individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.¹

We note, however, you have submitted information which does not list the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual. Thus, the information at issue may not be withheld under section 552.101 in conjunction with common-law privacy as a criminal history compilation. However, some of this information is otherwise subject to common-law privacy. Types of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See Open Records Decision No. 455* (1987). This office has also found personal financial information not relating to a financial transaction between an individual and a governmental body is generally highly intimate or embarrassing. *See Open Records Decision Nos. 523* (1989) (common-law privacy protects credit reports, financial statements, and other personal financial information), 373 (1983) (sources of income not related to financial transaction between individual and governmental body protected under common-law privacy). Upon review, we find the information you have marked, as well as the information we have marked, satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the department must withhold the information you have marked, as well as the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

We understand the department is redacting motor vehicle record information pursuant to section 552.130(c) of the Government Code. However, we note the department failed to mark some information subject to section 552.130. Section 552.130 provides information relating to a motor vehicle operator's or driver's license, motor vehicle title or registration, or personal

¹As our ruling is dispositive, we need not address your remaining argument under section 552.108 against disclosure.

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). Upon review, we find the department must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy. The department must withhold the information you have marked, as well as the information we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy and the motor vehicle record information we have marked under section 552.130 of the Government Code. The department must release the remaining information.

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.texasattorneygeneral.gov/open/orl_ruling_info.shtml, 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 may be directed to the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



David L. Wheelus
Assistant Attorney General
Open Records Division

DLW/bhf

Ref: ID# 527134

Enc. Submitted documents

c: Requestor
(w/o enclosures)