



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

July 23, 2014

Ms. LeAnn M. Quinn
City Secretary
City of Cedar Park
450 Cypress Creek Road
Cedar Park, Texas 78613

OR2014-12807

Dear Ms. Quinn:

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# 530161 (City Reference No. 14-586).

The City of Cedar Park (the "city") received a request for all records related to police or emergency assistance calls pertaining to two named individuals at a specified address. You state you will release some 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.

Initially, we note the requestor only seeks information related to the two named individuals in the request. We note one of the submitted audio recordings contains information beyond this information. Accordingly, this information, which we have noted, is not responsive to the instant request. This ruling does not address the public availability of non-responsive information, and the city is not required to release such information in response to this request.

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 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. Types of information considered intimate and

embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Id.* at 683. 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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. *See Open Records Decision No. 455* (1987). Upon review, we find the request requires the city to compile unspecified law enforcement records pertaining to the two named individuals. We find this request implicates the named individuals' rights to privacy. Thus, to the extent the city maintains law enforcement records depicting either of the named individuals 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. However, you have submitted information that does not list the named individuals as suspects, arrestees, or criminal defendants. This information does not consist of a compilation of the named individuals' criminal histories and may not be withheld under section 552.101 in conjunction with common-law privacy on that basis. Accordingly, we will address your arguments against disclosure of this information.

Additionally, this office has concluded some kinds of medical information are generally highly intimate or embarrassing. *See id.* Upon review, we find the information we marked in the submitted documents and noted on the submitted audio recordings satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked and noted under section 552.101 of the Government Code in conjunction with common-law privacy.¹

You state you will redact the motor vehicle information you marked pursuant to section 552.130(c) of the Government Code.² Section 552.130 of the Government Code provides information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of Texas or another state or country is excepted from public release. Gov't Code § 552.130(a). You state the city lacks the technological capability to redact the motor vehicle information contained in Exhibit E. Upon review, we find the city must withhold the

¹As our ruling is dispositive for this information, we need not address your remaining argument against disclosure.

²We note section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsection 552.130(a) without the necessity of seeking a decision from the attorney general. *See* Gov't Code § 552.130(c). If a governmental body redacts such information, it must notify the requestor in accordance with section 552.130(e). *See id.* § 552.130(d), (e).

submitted video recording in Exhibit E in its entirety under section 552.130. *See* Open Records Decision No. 364 (1983). Additionally, the remaining documents contain additional motor vehicle record information. Thus, the city must also withhold the additional information we marked in the submitted documents as well as the information you marked under section 552.130.

In summary, to the extent the city maintains law enforcement records depicting either of the named individuals 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 must withhold the information we marked and noted under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the submitted video recording in Exhibit E in its entirety as well as the motor vehicle information you marked, and we marked, in the submitted documents 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.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,



Rahat Huq
Assistant Attorney General
Open Records Division

RSH/dls

Ref: ID# 530161

Enc. Submitted documents

c: Requestor
(w/o enclosures)