



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 28, 2014

Ms. Alexis G. Allen
Counsel for the City of Rowlett
Nichols, Jackson, Dillard, Hager & Smith, L.L.P.
1800 Ross Tower
500 North Akard Street
Dallas, Texas 75201

OR2014-19445

Dear Ms. Allen:

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# 540929 (File # 67707).

The City of Rowlett (the "city"), which you represent, received a request for all reports concerning a specified address during a specified time period that pertain to named individuals. You claim the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note the requestor seeks reports from a specified time period. You have submitted a report of an incident which occurred before the specified time period. Accordingly, the submitted report which does not fall within the specified time period, which we have marked, is not responsive to the instant request. The city need not release non-responsive information in response to this request, and this ruling will not address that 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 of the Government Code 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) (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.

The present request seeks all reports pertaining to named individuals. The request requires the city to compile unspecified law enforcement records concerning the individuals named in the request, and thus, implicates the named individuals' rights to privacy. Accordingly, to the extent the city maintains unspecified law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. We note you have submitted reports in which neither of the named individuals is listed as a suspect, arrestee, or criminal defendant. These reports are not part of a criminal history compilation and, thus, do not implicate the privacy interests of the named individuals. Therefore, this information may not be withheld under section 552.101 of the Government Code in conjunction with common-law privacy. Consequently, we will consider your arguments against disclosure of the information at issue.

Section 552.101 of the Government Code also encompasses information protected by other statutes, such as chapter 411 of the Government Code, which deems confidential criminal history record information ("CHRI") generated by the National Crime Information Center or by the Texas Crime Information Center. CHRI means "information collected about a person by a criminal justice agency that consists of identifiable descriptions and notations of arrests, detentions, indictments, informations, and other formal criminal charges and their dispositions." Gov't Code § 411.082(2). 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. *See Open Records Decision No. 565* (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 that the Department of Public Safety ("DPS") maintains, except that 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) authorize a criminal justice agency to obtain CHRI; however, a criminal justice agency may not release CHRI except to another criminal justice agency for a criminal justice purpose. *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. 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 information at issue constitutes confidential CHRI for the purposes chapter 411 of the Government Code. Thus, the city may not withhold any portion of the information at issue under section 552.101 in conjunction with chapter 411 of the Government Code or federal law.

Section 552.130 of the Government Code provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title or registration, or personal identification document issued by an agency of this state or another state or country is excepted from public release. *See id.* § 552.130. Thus, the city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code.

In summary, to the extent the city maintains unspecified law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must also withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining responsive 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,



Alley Latham
Assistant Attorney General
Open Records Division

AKL/eb

Ref: ID# 540929

Enc. Submitted documents

c: Requestor
(w/o enclosures)