



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

November 7, 2014

Ms. Michelle L. Villarreal
Assistant City Attorney
City of Waco
P.O. Box 2570
Waco, Texas 76702-2570

OR2014-20324

Dear Ms. Villarreal:

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# 542940 (Waco Ref. No. LGL 14-232).

The City of Waco (the "city") received a request for all police records pertaining to two named individuals, including six specified incidents. You claim 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 "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) (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.

You state the present request requires the city to compile unspecified law enforcement records concerning the individuals named in the request, thus implicating the named individuals' rights to privacy. However, we note the requestor is the authorized representative of one of the named individuals. Section 552.023 of the Government Code gives a person or a person's authorized representative a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from required public disclosure by laws intended to protect that person's privacy interests. *See* Gov't Code § 552.023; Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when individual or individual's authorized representative requests information concerning the individual). Accordingly, the city may not withhold any of the submitted information under section 552.101 of the Government Code in conjunction with common-law privacy as a criminal history compilation for the individual for whom the requestor is the authorized representative. Furthermore, the requestor also seeks information pertaining to specified incidents. This portion of the request does not require the city to compile an individual's criminal history and does not implicate the privacy interests of either of the named individuals. Finally, we note the other named individual is not listed as a suspect, arrestee, or criminal defendant in any of the unspecified information. Therefore, the city may not withhold any of the submitted information as a criminal history compilation under section 552.101 in conjunction with common-law privacy. Accordingly, we will consider whether the information is otherwise excepted under the Act.

Section 552.130 provides information relating to a motor vehicle operator's or driver's license, title, or registration issued by a Texas agency, or an agency of another state or country, is excepted from public release.¹ *See* Gov't Code § 552.130(a)(1)-(2). The city must withhold the motor vehicle record information we have marked under section 552.130 of the Government Code. The remaining information must be released.²

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.

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

²We note the requestor has a right of access to the information being released. *See* Gov't Code § 552.023(a); Open Records Decision No. 481 at 4. Therefore, if the city receives another request for this same information from a different requestor, it must again seek a ruling from our office.

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,

A handwritten signature in black ink, appearing to read "B. Berger", written over a horizontal line.

Brian E. Berger
Assistant Attorney General
Open Records Division

BB/ac

Ref: ID# 542940

Enc. Submitted documents

c: Requestor
(w/o enclosures)