



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

March 3, 2015

Ms. Natasha Brooks
Assistant City Attorney
City of Midland
P.O. Box 1152
Midland, Texas 79702-1152

OR2015-04163

Dear Ms. Brooks:

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# 555784 (Midland ID# 15666).

The City of Midland (the "city") received a request for information pertaining to the requestor or a named individual at a specified address for a specified time period and for all incident reports or calls at the specified address for the same specified time period. You state you have released some information. You claim portions of the submitted information are 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 from public 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. This office has found 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. United States 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. Further, information that refers to an individual solely as a victim, witness, or involved person is not a compilation of the individual's criminal history and may not be withheld under section 552.101 on that basis.

This request, in part, requires the city to compile the named individual's criminal history and implicates the named individual's right to privacy. However, upon review of the request and the submitted information, we find the requestor is, in part, seeking domestic violence reports involving the requestor and the named individual. Thus, this portion of the request does not implicate the named individual's right to privacy, and the domestic violence reports involving the requestor and the named individual may not be withheld under section 552.101 of the Government Code on the basis of the named individual's privacy interests as a compilation of his criminal history. We further note you have submitted information that does not list the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interest of the named individual. This information is not part of a criminal history compilation and may not be withheld under section 552.101 in conjunction with common-law privacy on that basis. However, to the extent the city maintains unspecified law enforcement records, other than the domestic violence reports involving the requestor and the named individual, depicting the named individual 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.

Common-law privacy also protects the type of information considered intimate and embarrassing by the Texas Supreme Court are delineated in *Industrial Foundation*. *Indus. Found.*, 540 S.W.2d 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). Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. Accordingly, the city must withhold the information we marked under section 552.101 of the Government Code in conjunction with common-law privacy. However, we find the remaining information you marked does not identify an individual to whom the information pertains, and therefore, does not implicate any individual's right to privacy. Accordingly, the city may not withhold the remaining information you marked under section 552.101 of the Government Code in conjunction with common-law privacy.

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.¹ *See* Gov't Code § 552.130. Accordingly, the city must

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).

withhold the motor vehicle record information we marked under section 552.130 of the Government Code.

In summary, to the extent the city maintains unspecified law enforcement records, other than the domestic violence reports involving the requestor and the named individual, depicting the named individual 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 under section 552.101 of the Government Code in conjunction with common-law privacy and the information we marked under section 552.130 of the Government Code. The city 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,



Paige Thompson
Assistant Attorney General
Open Records Division

PT/dls

Ref: ID# 555784

Enc. Submitted documents

c: Requestor
(w/o enclosures)