



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

April 21, 2015

Mr. Guillermo Trevino
Assistant City Attorney
City of Fort Worth
1000 Thockmorton Street, Third Floor
Fort Worth, Texas 76102

OR2015-07630

Dear Mr. Trevino:

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# 561523 (PIR No. W040344).

The City of Fort Worth (the "city") received a request for information pertaining to a named individual at a specified address for a specified time period. We understand the city will redact motor vehicle record information under section 552.130(c) of the Government Code and social security numbers under section 552.147(b) of the Government Code.¹ 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

¹Section 552.130(c) of the Government Code allows a governmental body to redact the information described in subsections 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). Section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without requesting a decision from this office under the Act. *Id.* § 552.147(b).

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.

Upon review, we find the present request requires the city to compile unspecified law enforcement records concerning the named individual. Therefore, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy. However, we 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. Accordingly, we will consider your argument for this information.

The doctrine of common-law privacy also excepts the types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation. Indus. Found.*, 540 S.W.2d at 683. Generally, only highly intimate information that implicates the privacy of an individual is withheld. However, in certain instances, where it is demonstrated the requestor knows the identity of the individual involved as well as the nature of certain incidents, the entire report must be withheld to protect the individual's privacy. In this instance, the requestor knows the identity of the individual involved as well as the nature of the incidents in report numbers 14-31974 and 14-38526. Therefore, withholding only the individual's identity or certain details of the incident from the requestor would not preserve the subject individual's common-law right of privacy. Accordingly, to protect the privacy of the individual to whom the information relates, the city must withhold the information pertaining to report numbers 14-31974 and 14-38526, which we have marked, in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy.

You indicate the city will redact portions of the remaining information pursuant to Open Records Letter Nos. 2011-15641 (2011) and 2011-15956 (2011). Open Records Letter Nos. 2011-15641 and 2011-15956 are previous determinations authorizing the city to withhold the originating telephone numbers and addresses, respectively, of 9-1-1 callers furnished to the city by a service supplier established in accordance with chapter 772 of the

Health and Safety Code under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code, without requesting a decision from this office. The remaining information indicates some of the information you marked in the remaining information was furnished by a 9-1-1 service provider. We note, however, that you have marked a 9-1-1 caller's name in addition to the 9-1-1 caller's address and telephone number in the remaining information. We note only the originating addresses and telephone numbers of 9-1-1 callers are confidential under chapter 772 of the Health and Safety Code. Accordingly, the city may not withhold the caller's name under section 552.101 on this basis. However, the city must withhold the address and telephone number you marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety Code.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy. The city must withhold the information pertaining to report numbers 14-31974 and 14-38526, which we have marked, in its entirety under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the address and telephone number you marked under section 552.101 of the Government Code in conjunction with section 772.218 of the Health and Safety 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# 561523

Enc. Submitted documents

c: Requestor
(w/o enclosures)