



KEN PAXTON
ATTORNEY GENERAL OF TEXAS

October 11, 2017

Ms. Stacie S. White
Counsel for the City of Euless
Taylor Olson Adkins Sralla Elam, L. L. P.
6000 Western Place, Suite 200
Fort Worth, Texas 76107-4654

OR2017-23172

Dear Ms. White:

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# 679944.

The Euless Police Department (the "department") received a request for information involving several named individuals and specified incidents. You state the department will release some of the requested information. We understand the department will withhold dates of birth of public citizens pursuant to open Records Letter No. 2017-05466 (2017).¹ You state the department will redact certain information pursuant to section 552.130(c) of the Government Code, section 552.147(b) of the Government Code, and Open Records Decision No. 684 (2009).² You claim the submitted information is excepted from disclosure

¹Open Records Letter No. 2017-05466 authorizes the department to withhold dates of birth of members of the public under section 552.101 of the Government Code in conjunction with common-law privacy without the necessity of requesting an attorney general's decision.

²Section 552.130(c) of the Government Code allows a governmental body to redact the information described in section 552.130(a) without the necessity of seeking a decision from the attorney general. 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 the necessity of requesting a decision from this office under the Act. *Id* § 552.147(b). Open Records Decision No. 684 is a previous determination to all governmental bodies authorizing them to withhold specific categories of

under section 552.101 of the Government Code. We have considered the exception you claim.

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. 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. This office has also concluded some kinds of medical information are generally highly intimate or embarrassing. *See Open Records Decision No. 455* (1987).

The department contends the present request requires it to compile unspecified law enforcement records concerning the individuals named in the request. We note, however, the request seeks information pertaining to specified incidents. Thus, we find the present request does not require the department to compile unspecified law enforcement records concerning the named individuals. Accordingly, no portion of the submitted information may be withheld under section 552.101 in conjunction with common-law privacy as a compilation of criminal history. Upon review, we find the information we marked satisfies the standard articulated by the Texas Supreme Court in *Industrial Foundation*. However, the department has failed to demonstrate the remaining information it marked is highly intimate or embarrassing and of no legitimate public interest. Thus, the department may not withhold the remaining information it marked under section 552.101 of the Government Code in conjunction with common-law privacy. 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.

information without the necessity of requesting an attorney general decision.

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,



Emily Buchanan
Attorney
Open Records Division

EB/eb

Ref: ID# 679944

Enc. Submitted documents

c: Requestor
(w/o enclosures)