



**KEN PAXTON**  
ATTORNEY GENERAL OF TEXAS

August 10, 2020

Mr. Ron G. Macfarlane Jr.  
Counsel for the City of Cedar Hill  
The Macfarlane Firm  
400 East Royal Lane, Suite 290  
Irving, Texas 75039

OR2020-19953

Dear Mr. Macfarlane:

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# 839631.

The City of Cedar Hill (the "city"), which you represent, received eleven requests from the same requestor for information pertaining to two named individuals, including information pertaining to a specified incident. You state the city released some of the requested information. You claim some of the requested information was not properly requested pursuant to section 1701.661 of the Occupations Code. You further claim any remaining requested information is excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered your arguments.

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. This section encompasses 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) (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). Furthermore, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, 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.

The present requests seek information pertaining to two named individuals. These requests require the city to compile the named individuals' criminal histories and implicates each named individual's right to privacy. Therefore, to the extent the city maintains law enforcement records listing either of the named individuals as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

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 <https://www.texasattorneygeneral.gov/open-government/members-public/what-expect-after-ruling-issued> or call the OAG's Open Government Hotline, toll free, at (877) 673-6839. Questions concerning the allowable charges for providing public information under the Public Information Act may be directed to the Cost Rules Administrator of the OAG, toll free, at (888) 672-6787.

Sincerely,

Matthew Taylor  
Assistant Attorney General  
Open Records Division

MT/jxd

Ref: ID# 839631

Enc. Submitted documents

c: Requestor  
(w/o enclosures)