



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

October 14, 2005

Ms. Leann Guzman  
Assistant City Attorney  
City of Fort Worth  
1000 Throckmorton Street  
Fort Worth, Texas 76102

OR2005-09333

Dear Ms. Guzman:

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# 234249.

The City of Fort Worth (the "city") received a request for all incident reports for a named person for years 1980 through 1983, years 2000 through 2003, and year 2005. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Section 552.101 excepts from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Gov't Code § 552.101. You assert that Exhibits C and E should be protected by section 411.083 of the Government Code as criminal history record information ("CHRI"). CHRI that is generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. Section 411.083 of the Government Code deems confidential CHRI that the Department of Public Safety ("DPS") maintains, except that the DPS may disseminate this information as provided in chapter 411, subchapter F of the Government Code. *See* Gov't Code § 411.083. Exhibits C and E are incident reports generated by the Fort Worth Police Department and are thus not CHRI generated by TCIC or NCIC. Accordingly, Exhibits C and E may not be withheld under section 552.101 in conjunction with chapter 411 of the Government Code.

We note that section 552.101 also encompasses the doctrine of common-law privacy, which protects information if it (1) contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) is not of legitimate

concern to the public. *Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). Where an individual's criminal history information has been compiled by a governmental entity, the information takes on a character that implicates the individual's right to privacy. See *United States Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). However, information that refers to an individual solely as a victim, witness, or involved person is not private under *Reporters Committee* and may not be withheld under section 552.101 on that basis. In addition, when a requestor asks for information relating to a particular incident, the request does not implicate the privacy concerns expressed in *Reporters Committee* because complying with the request does not require the governmental body to compile unspecified records.

In this instance, the requestor asks for all information concerning a certain person during different time periods. You have submitted incident reports in which the requestor was the complainant. After our review of the submitted information, we find that the requestor is specific in her request of the reports in which she was involved, and thus, the privacy concerns expressed in *Reporters Committee* are not implicated, and the reports may not be withheld on that basis. Furthermore, you have also submitted reports where the named individual is listed as a complainant or witness. These reports also do not implicate the privacy concerns expressed in *Reporters Committee* and may not be withheld on that basis. However, to the extent the city maintains records in which the named individual is a possible suspect, defendant, or arrestee, where the requestor is not the complainant, we find that you must withhold such information under common-law privacy as encompassed by section 552.101 of the Government Code. See *id*

Now we turn to your argument for the incident reports that are not protected by privacy. You claim that Exhibits C and D contain information that is excepted under section 552.130 of the Government Code. In relevant part, section 552.130 provides:

(a) Information is excepted from required public disclosure if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130. After reviewing Exhibits C and D, we agree that most of the Texas-issued motor vehicle information you have highlighted must be withheld under section 552.130 of the Government Code. We note, however, that section 552.130 protects privacy interests. Section 552.023 of the Government Code gives a person or the person's authorized representative a special right of access to information that is excepted from public disclosure under laws intended to protect that person's privacy interest as subject of the information. See Gov't Code § 552.023. Thus, here the requestor has a right of access to her

own driver's license number and information relating to the vehicle in which she owns an interest. Accordingly, the city must release the requestor's own information, but must withhold the remaining highlighted information under section 552.130 of the Government Code. We have also marked additional information that the city must withhold under section 552.130 of the Government Code.

We note that Exhibit D contains a social security number. Section 552.147 of the Government Code<sup>1</sup> provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. Therefore, the city must withhold the social security number we have marked in Exhibit D under section 552.147 of the Government Code.<sup>2</sup>

In summary, to the extent the city maintains records in which the named individual is a possible suspect, defendant, or arrestee, where the requestor is not the complainant, we find that you must withhold such information under section 552.101 in conjunction with common-law privacy. The city must withhold the Texas-issued motor vehicle information of individuals other than the requestor in Exhibits C and D under section 552.130 of the Government Code. The social security number we have marked in Exhibit D must be withheld under section 552.147 of the Government Code. The remaining information must be released.<sup>3</sup>

This letter ruling is limited to the particular records 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 records or any other circumstances.

This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For example, governmental bodies are prohibited from asking the attorney general to reconsider this ruling. Gov't Code § 552.301(f). If the governmental body wants to challenge this ruling, the governmental body must appeal by filing suit in Travis County within 30 calendar days. *Id.* § 552.324(b). In order to get the full

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<sup>1</sup>Added by Act of May 23, 2005, 79th Leg., R.S., S.B. 1485, § 1, sec. 552.147(a) (to be codified at Tex. Gov't Code § 552.147).

<sup>2</sup>We note that 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.

<sup>3</sup>We note, however, that the submitted documents contain information that is confidential with respect to the general public. See Gov't Code § 552.023 (person's authorized representative has special right of access to information that is excepted from public disclosure under laws intended to protect person's privacy interest as subject of the information); see also Open Records Decision No. 481 at 4 (1987) (privacy theories not implicated when person asks governmental body for information concerning the person himself or herself). Thus, in the event the city receives another request for this information from someone other than this requestor or her representative, the city must ask this office for a decision whether the information is subject to public disclosure.

benefit of such an appeal, the governmental body must file suit within 10 calendar days. *Id.* § 552.353(b)(3), (c). If the governmental body does not appeal this ruling and the governmental body does not comply with it, then both the requestor and the attorney general have the right to file suit against the governmental body to enforce this ruling. *Id.* § 552.321(a).

If this ruling requires the governmental body to release all or part of the requested information, the governmental body is responsible for taking the next step. Based on the statute, the attorney general expects that, upon receiving this ruling, the governmental body will either release the public records promptly pursuant to section 552.221(a) of the Government Code or file a lawsuit challenging this ruling pursuant to section 552.324 of the Government Code. If the governmental body fails to do one of these things, then the requestor should report that failure to the attorney general's Open Government Hotline, toll free, at (877) 673-6839. The requestor may also file a complaint with the district or county attorney. *Id.* § 552.3215(e).

If this ruling requires or permits the governmental body to withhold all or some of the requested information, the requestor can appeal that decision by suing the governmental body. *Id.* § 552.321(a); *Texas Dep't of Pub. Safety v. Gilbreath*, 842 S.W.2d 408, 411 (Tex. App.—Austin 1992, no writ).

Please remember that under the Act the release of information triggers certain procedures for costs and charges to the requestor. If records are released in compliance with this ruling, be sure that all charges for the information are at or below the legal amounts. Questions or complaints about over-charging must be directed to Hadassah Schloss at the Office of the Attorney General at (512) 475-2497.

If the governmental body, the requestor, or any other person has questions or comments about this ruling, they may contact our office. Although there is no statutory deadline for contacting us, the attorney general prefers to receive any comments within 10 calendar days of the date of this ruling.

Sincerely,



Jaclyn N. Thompson  
Assistant Attorney General  
Open Records Division

JNT/krl

Ref: ID# 234249

Enc. Submitted documents

c: Carmen Salazar  
P. O. Box 4862  
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(w/o enclosures)