ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 16, 2005

Ms. Patricia Persohn
Public Information Act Coordinator
City of Corpus Christi Police Department
P.O. Box 9016
Corpus Christi, Texas 78469-9016

OR2005-11336

Dear Ms. Persohn:

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# 238802.

The City of Corpus Christi (the "city") received a request for information pertaining to a named individual at a specified address.[1] You claim that the requested 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 from disclosure "information considered to be confidential by law, either constitutional, statutory, or by judicial decision." Section 552.101 encompasses common law privacy, which protects information if (1) the information contains highly intimate or embarrassing facts the publication of which would be highly objectionable to a reasonable person, and (2) the information 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

[1]You indicate that the city sought and received a clarification of the information requested. *See* Gov't Code § 552.222 (if request for information is unclear, governmental body may ask requestor to clarify request); *see also* Open Records Decision No. 31 (1974) (when presented with broad requests for information rather than for specific records, governmental body may advise requestor of types of information available so that request may be properly narrowed).

entity, the information takes on a character that implicates the individual's right to privacy. *See U.S. Dep't of Justice v. Reporters Comm. for Freedom of the Press*, 489 U.S. 749 (1989). However, information relating to routine traffic violations is not excepted from release under section 552.101 in conjunction with common law privacy and *Reporters Committee*. *Cf.* Gov't Code § 411.082(2)(B).

The request asks for all information held by the city concerning a named individual. We find that this request for unspecified law enforcement records requires the city to compile the criminal history of the individual and thus implicates the individual's right to privacy as contemplated in *Reporters Committee*. Accordingly, to the extent the city maintains any law enforcement information depicting the individual as a suspect, arrestee, or criminal defendant, such information is excepted from disclosure under section 552.101 in conjunction with common law privacy.

Section 552.101 also encompasses information made confidential by statute. Criminal history record information ("CHRI") generated by the National Crime Information Center ("NCIC") or by the Texas Crime Information Center ("TCIC") is confidential. Title 28, part 20 of the Code of Federal Regulations governs the release of CHRI that states obtain from the federal government or other states. Open Records Decision No. 565 (1990). The federal regulations allow each state to follow its individual law with respect to CHRI it generates. *Id.* 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. We note that driving record information is not made confidential by the confidentiality provisions that govern CHRI. *See id.* § 411.082(2)(B) (definition of CHRI does not include driving record information).

The information at issue does not consist of CHRI generated by the NCIC or TCIC. Accordingly, none of the information at issue is confidential under chapter 411 of the Government Code, and the city may not withhold it under section 552.101 on that ground.

We note that some of the remaining information is excepted under section 552.130 of the Government Code, which provides that a motor vehicle operator's, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). The city must withhold the Texas motor vehicle record information we have marked under section 552.130.

Finally, we note that the submitted information includes the social security number of the individual at issue. Section 552.147 of the Government Code 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 numbers contained in the submitted information under section 552.147.[2]

To conclude, the city must withhold (1) pursuant to section 552.101 in conjunction with common law privacy and *Reporters Committee*, any law enforcement information depicting the individual as a suspect, arrestee, or criminal defendant, (2) the motor vehicle record information marked under section 552.130, and (3) the individual's social security number under section 552.147. The city must release the remaining information.

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 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).

---

[2]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.

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,

James L. Coggeshall
Assistant Attorney General
Open Records Division

JLC/sdk

Ref: ID# 238802

Enc. Submitted documents

c: Mr. Charles Robinson
Ms. Hattie D. Robinson
903 Crossbill
Corpus Christi, Texas 78418
(w/o enclosures)