



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

April 16, 2009

Mr. P. Armstrong  
Assistant City Attorney  
Criminal Law and Police Division  
1400 South Lamar  
Dallas, Texas 75215

OR2009-05023

Dear Mr. Armstrong:

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# 340042.

The Dallas Police Department (the "department") received a request for a named individual's complete criminal history and for information related to this individual's most recent arrest for a probation violation and family violence. You claim that the requested information is excepted from disclosure under sections 552.101, 552.130, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted representative sample of information.<sup>1</sup>

Initially, we note you have not submitted any information responsive to the portions of the request seeking information related to the probation violation and 9-1-1 communications regarding the specified family violence case. Therefore, to the extent this information existed when the present request was received, we assume it has been released. If such information has not been released, then it must be released at this time. *See Gov't Code*

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<sup>1</sup>We assume that the "representative sample" of records submitted to this office is truly representative of the requested records as a whole. *See* Open Records Decision Nos. 499 (1988), 497 (1988). This open records letter does not reach, and therefore does not authorize the withholding of, any other requested records to the extent that those records contain substantially different types of information than that submitted to this office.

§§ 552.301(a), .302; *see also* Open Records Decision No. 664 (2000) (if governmental body concludes that no exceptions apply to requested information, it must release information as soon as possible).

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 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). To demonstrate the applicability of common-law privacy, both prongs of this test must be demonstrated. *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) (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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. The request, in part, seeks unspecified law enforcement records pertaining to an individual other than himself. As such, the request implicates that individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 in conjunction with common-law privacy.

We note, however, that the requestor may be the authorized representative of the individual whose information is at issue. Section 552.023 of the Government Code gives a person or a person's authorized representative a special right of access, beyond the right of the general public, to information held by a governmental body that relates to the person and that is protected from disclosure by laws intended to protect that person's privacy interests. *See* Gov't Code § 552.023. Thus, if the requestor is the authorized representative of the individual at issue, then the requestor has a special right of access to the compilation of the named individual's criminal history, to the extent it exists.

We also note that the requestor seeks information pertaining to a specified incident. This information is not part of a compilation of an individual's criminal history and may not be withheld under section 552.101 in conjunction with common-law privacy. Thus, we will address your arguments for the remaining information.

Next, you claim that a portion of the submitted information is excepted from disclosure under section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued

by a Texas agency is excepted from public release. *Id.* § 552.130(a)(1), (2). You must withhold the Texas motor vehicle information you have marked, in addition to the information we have marked, under section 552.130. However, to the extent the requestor is acting as the authorized representative of the individuals whose Texas driver's license information is at issue, the requestor has a special right of access to such information. *See id.* § 552.023.

Finally, you have marked some of the remaining information under section 552.147 of the Government Code, which provides that "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. We agree that the department may withhold the social security numbers you have marked under section 552.147.<sup>2</sup> However, if the requestor is acting as the authorized representative of the individual whose social security number is at issue, the requestor has a special right of access to such information. *See id.* § 552.023.

In summary, if the requestor is not the authorized representative of the named individual, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must also withhold the information you have marked, in addition to the information we have marked, under section 552.130 of the Government Code. The department may withhold the information you have marked under section 552.147. If the requestor is acting as the authorized representative of the individual at issue, the department must release the information pertaining to that individual pursuant to section 552.023 of the Government Code.<sup>3</sup>

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.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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

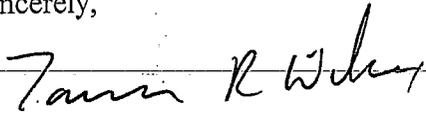
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<sup>2</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act.

<sup>3</sup>We note that because the requestor may have a special right of access to this information in this instance, the department must again seek a decision from this office if it receives another request for the same information from another requestor.

information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General at (512) 475-2497.

Sincerely,



Tamara Wilcox  
Assistant Attorney General  
Open Records Division

TW/eeg

Ref: ID# 340042

Enc. Submitted documents

c: Requestor  
(w/o enclosures)