



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 2, 2009

Mr. John Ohnemiller  
First Assistant City Attorney  
City of Midland  
P.O. Box 1152  
Midland, Texas 79702-1152

OR2009-15534

Dear Mr. Ohnemiller:

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# 360220.

The City of Midland (the "city") received a request for records pertaining to a named individual during a specified period of time. You claim that the requested information is excepted from disclosure under sections 552.101, 552.108, and 552.130 of the Government Code. We have considered the exceptions 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." Gov't Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information that is highly intimate or embarrassing, such that its release would be highly objectionable to a person of ordinary sensibilities, and of no legitimate public interest. *See Indus. Found. v. Tex. Indus. Accident Bd.*, 540 S.W.2d 668, 685 (Tex. 1976). To demonstrate the applicability of common-law privacy, both elements of the test must be established. *See 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. 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, a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. We note, however, that records relating to routine traffic violations are not considered criminal history record information. *Cf.* Gov't Code § 442.082(2)(B) (criminal history record information does not include driving record information). In this instance, the request is for all records pertaining to a named individual during a specified period of time. We find that this request for unspecified law enforcement records concerning the named individual implicates the named individual's privacy rights. Thus, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.

However, we note you have submitted information that relates to routine traffic violations and that does not relate to the named individual as a suspect, arrestee, or criminal defendant. This information does not implicate the privacy interests of the named individual, so we will address your arguments against the disclosure of this information.

Section 552.108(a)(2) of the Government Code excepts from disclosure information concerning an investigation that concluded in a result other than conviction or deferred adjudication. Gov't Code § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state that case number 2009-06200034 is a closed case that did not result in a conviction or deferred adjudication. Based on your representation and our review, we conclude that section 552.108(a)(2) is applicable to case number 2009-06200034.

However, section 552.108 of the Government Code does not except from disclosure basic information about an arrested person, an arrest, or a crime. *Id.* § 552.108(c). Basic information refers to the information held to be public in *Houston Chronicle Publishing Co. v. City of Houston*, 531 S.W.2d 177 (Tex. Civ. App.—Houston [14th Dist.] 1975), *writ ref'd n.r.e. per curiam*, 536 S.W.2d 559 (Tex. 1976). Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). Thus, with the exception of basic information, the city may withhold case number 2009-06200034 under section 552.108(a)(2) of the Government Code.<sup>1</sup>

Section 552.130 of the Government Code excepts from disclosure information relating to a motor vehicle title or registration issued by an agency of this state. Gov't Code § 552.130(a)(1). Accordingly, the city must withhold the Texas license plate information

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<sup>1</sup>As we are able to make this determination under section 552.108, we need not address your argument under section 552.130 of the Government Code for this information.

we have marked in the remaining information under section 552.130 of the Government Code.

In summary, to the extent the city maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. With the exception of basic information, which must be released, the city may withhold case number 2009-06200034 under section 552.108(a)(2) of the Government Code. The city must withhold the Texas license plate information we have marked under section 552.130 of the Government Code. The remaining information must be released to the requestor.

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 information under the Act must be directed to the Cost Rules Administrator of the Office of the Attorney General, toll free, at (888) 672-6787.

Sincerely,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/eb

Ref: ID# 360220

Enc. Submitted documents

c: Requestor  
(w/o enclosures)