



ATTORNEY GENERAL OF TEXAS

GREG ABBOTT

December 9, 2009

Mr. Mack Reinwand  
Assistant Police Legal Advisor  
Arlington Police Department  
P.O. Box 1065, Mail Stop 04-0200  
Arlington, Texas 76004-1065

OR2009-17431

Dear Mr. Reinwand:

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# 364318 (Police Dept. Ref. No. 2009-09-167).

The Arlington Police Department (the "department") received a request for all reports, offenses, records or citations involving a specified individual between May 1, 2002 and the date of the request. 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." Gov't Code § 552.101. This exception encompasses the doctrine of common-law privacy, which protects information that is (1) highly intimate or embarrassing, such that its release would be highly objectionable to a reasonable person, and (2) not of legitimate concern to the public. *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 prongs of this test must be satisfied. *Id.* at 681-82. The types of information considered intimate and embarrassing by the Texas Supreme Court in *Industrial Foundation* included information relating to sexual assault, pregnancy, mental or physical abuse in the workplace, illegitimate children, psychiatric treatment of mental disorders, attempted suicide, and injuries to sexual organs. *Id.* at 683. In addition, this office has found that medical information or information indicating disabilities or specific illnesses is excepted from required public disclosure under

common-law privacy. *See* Open Records Decision Nos. 470 (1987) (illness from severe emotional and job-related stress), 455 (1987) (prescription drugs, illnesses, operations, and physical handicaps). A compilation of an individual's criminal history is also 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 present request seeks "[a]ny and all reports, offenses, or citations" pertaining to a specific individual. We find this request for unspecified law enforcement records implicates this 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, it must withhold such information under section 552.101 in conjunction with common-law privacy.

We note, however, that you have submitted a report, report no. 06-24299, which lists the specified individual as a victim and not a suspect, arrestee, or criminal defendant. Thus, this information does not constitute a compilation of the individual's criminal history and report no. 06-24299 may not be withheld under section 552.101 on this basis. However, we note that portions of report no. 06-24299 contain information that is highly intimate or embarrassing and of no legitimate public interest. The department must withhold this information, which we have marked, under section 552.101 of the Government Code in conjunction with common-law privacy.

We also note that portions of report no. 06-24299 include information subject to section 552.130 of the Government Code, which excepts from disclosure information relating to a motor vehicle operator's or driver's license or permit, a motor vehicle title or registration, or a personal identification document issued by an agency of this state.<sup>1</sup> *See* Gov't Code § 552.130(a)(1)-(2). The department must withhold this information, which we have marked, under section 552.130.

In summary, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, it must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the information we have marked in

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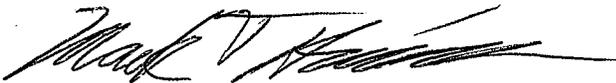
<sup>1</sup> The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

report no. 06-24299 under section 552.101 in conjunction with common-law privacy. The department must withhold the Texas motor vehicle record information we have marked in report no. 06-24299 under section 552.130. The remainder of report no. 06-24299 must be released.

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,



Mack T. Harrison  
Assistant Attorney General  
Open Records Division

MTH/rl

Ref: ID# 364318

Enc. Submitted documents

c: Requestor  
(w/o enclosures)