



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

January 7, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
Legal Department  
City of Corpus Christi  
P.O. Box 9277  
Corpus Christi, Texas 78469

OR2010-00345

Dear Ms. Aguilar:

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# 366582.

The Corpus Christi Police Department (the "department") received a request for reports of assault or domestic violence involving two named individuals at two specified locations, a report involving the named individuals at another specified location, and any other reports regarding the named individuals. You claim the requested information is excepted from disclosure under section 552.101 of the Government Code. We have considered the exception you claim.

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 that (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). To demonstrate the applicability of common-law privacy, both prongs of this test must be satisfied. *Id.* at 681-82. The type 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. 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 present request, in part, seeks all of the department's records involving two named individuals. This part of the request requires the department to compile the named individuals' criminal history. Thus, this request for unspecified law enforcement records implicates the named individuals' rights to privacy. However, the requestor also seeks reports of assault or domestic violence involving the named individuals at two specified locations and a report involving the named individuals at another specified location. We find this part of the request does not implicate the privacy interests of the named individuals. Accordingly, report numbers 0801120002, 0801120035, 0907060136, 0907070150, and 0808080127 may not be withheld as criminal history compilations. You also submitted a CRB-3 accident report that does not list either named individual as a suspect, arrestee, or criminal defendant. However, to the extent the department maintains other law enforcement records depicting the named individuals as suspects, arrestees, or criminal defendants, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy.

Section 552.101 of the Government Code also encompasses information other statutes make confidential, such as section 550.065 of the Transportation Code. The submitted CRB-3 accident report was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.064 (officer's accident report). Subsection 550.065(b) states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *See* Transp. Code § 550.065(b). Subsection 550.065(c)(4) provides for the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. *Id.* § 550.065(c)(4). Under this provision, the Texas Department of Transportation or another governmental entity is required to release a copy of an accident report to a person who provides the agency with two or more pieces of information specified by the statute. *Id.* The requestor has not provided the department with two of the three pieces of information; thus, the department must withhold the marked accident report under section 552.101 in conjunction with subsection 550.065(b). Report numbers 0801120002, 0907060136, 0907070150, and 0808080127 contain Texas motor vehicle record information that is subject to section 552.130 of the Government Code.<sup>1</sup> Section 552.130 excepts from disclosure information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency. Gov't

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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).

Code § 552.130(a)(1), (2). The department must withhold the Texas motor vehicle record information we marked in these reports under section 552.130.<sup>2</sup>

In summary, to the extent the department maintains law enforcement records, other than report numbers 0801120002, 0801120035, 0907060136, 0907070150, and 0808080127, depicting the named individuals as suspects, arrestees, or criminal defendants, the department must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department must withhold the marked CRB-3 accident report under section 552.101 in conjunction with subsection 550.065(b), as well as the Texas motor vehicle record information we marked in report numbers 0801120002, 0907060136, 0907070150, and 0808080127 under section 552.130. The remaining information in those reports, as well as report number 0801120035 in its entirety, 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,



Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/cc

Ref: ID# 366582

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)

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<sup>2</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including a Texas driver's license number and a Texas license plate number, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.