



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

January 14, 2010

Ms. Courtney Alvarez
City Attorney
City of Kingsville
P.O. Box 1458
Kingsville, Texas 78364

OR2010-00725

Dear Ms. Alvarez:

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# 367824.

The City of Kingsville (the "city") received a request for all police reports involving a named individual from August 2006 to the present. You claim the requested information is excepted from disclosure under sections 552.101 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. 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 satisfied. *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, we find that 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 § 411.082(2)(B) (criminal history record information does not include driving record information).

In this instance, the request is for all police reports pertaining to a named individual during a specified time period. We find that this request requires the city to compile unspecified law enforcement records concerning the named individual. Such a request implicates the named individual's privacy rights. Thus, to the extent the city maintains law enforcement records depicting the named individual as either 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, you have submitted information that does not relate to the named individual as a suspect, arrestee, or criminal defendant. You have also submitted information that relates to routine traffic violations. These reports do not implicate the privacy interests of the named individual. Thus, we will address your remaining arguments against the disclosure of this information.

Section 552.101 of the Government Code also encompasses section 58.007 of the Family Code. Juvenile law enforcement records relating to conduct that occurred on or after September 1, 1997, are confidential under section 58.007. For purposes of section 58.007, "child" means a person who is ten years of age or older and under seventeen years of age. *See* Fam. Code § 51.02(2). Section 58.007 provides in pertinent part as follows:

(c) Except as provided by Subsection (d), law enforcement records and files concerning a child and information stored, by electronic means or otherwise, concerning the child from which a record or file could be generated may not be disclosed to the public and shall be:

- (1) if maintained on paper or microfilm, kept separate from adult files and records;
- (2) if maintained electronically in the same computer system as records or files relating to adults, be accessible under controls that are separate and distinct from controls to access electronic data concerning adults; and
- (3) maintained on a local basis only and not sent to a central state or federal depository, except as provided by Subchapters B, D, and E.

Id. § 58.007(c). Case number 09-003988 consists of law enforcement records involving juvenile delinquent conduct that occurred after September 1, 1997; therefore, this information is subject to section 58.007. The city must withhold case number 09-003988 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. You also assert section 58.007 of the Family Code is applicable to a portion of case number 08-003196. However, case number 08-003196 does not identify a juvenile as a suspect or offender and does not pertain to delinquent conduct or conduct indicating a need for supervision. *See id.* § 51.03(b) (defining “conduct indicating need for supervision” for purposes of title 3 of the Family Code). Section 58.007 does not apply to juveniles listed as complainant, victim, witness, or other involved party. *See id.* § 58.007. Therefore, section 58.007 does not apply to any of the remaining information, and it may not be withheld under section 552.101 in conjunction with section 58.007 of the Family Code.

Next, you raise section 552.130 of the Government Code for portions of the remaining information. Section 552.130 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. Gov’t Code § 552.130(a)(1), (2). Thus, the city must withhold the Texas motor vehicle record information you have marked, and the additional information we have marked, pursuant to section 552.130 of the Government Code.¹

In summary, to the extent the city maintains law enforcement records depicting the named individual as either 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. The city must withhold case number 09-003988 under section 552.101 of the Government Code in conjunction with section 58.007 of the Family Code. The city must withhold the information you have marked, and the additional 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, or call the Office of the Attorney General’s Open Government Hotline, toll free,

¹We 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 Texas driver’s license numbers and Texas license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,

A handwritten signature in cursive script, appearing to read "Amy Shipp".

Amy L.S. Shipp
Assistant Attorney General
Open Records Division

ALS/rl

Ref: ID# 367824

Enc. Submitted documents

cc: Requestor
(w/o enclosures)