



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

March 3, 2010

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

OR2010-03085

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# 371812.

The Corpus Christi Police Department (the "department") received a request for any records involving a named individual, including records relating to the named individual's arrest on a specified date. You state some of the requested information has been made available to the requestor. You claim portions of the submitted records are excepted from disclosure under sections 552.101 and 552.108 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note one document you submitted is not responsive to the instant request because it was created after the date the department received the request for information. This ruling does not address the public availability of any information that is not responsive to the request and the department is not required to release that information in response to the request.

Section 552.101 of the Government Code excepts from public 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 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 a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request, in part, seeks any records pertaining to a named individual. This aspect of the request, in part, requires the department to compile the named individual's criminal history, thus implicating the named individual's right to privacy. However, the request also refers to a specified arrest of the named individual. Therefore report number 0912040018 and its related documents, which concern the specified arrest, are not part of the criminal history compilation. However, to the extent the department maintains other records listing the named individual as a suspect, arrestee, or criminal defendant, the department must withhold this information under section 552.101 in conjunction with common-law privacy. We note report numbers 0712200182 and 0911110121, and their related documents, do not list the named individual as a suspect, arrestee, or criminal defendant and thus do not implicate the named individual's right to privacy. Therefore, we will address your arguments against disclosure of report numbers 0912040018, 071220182, and 0911110121.

You state report number 0911110121 was the subject of previous requests for information in response to which this office issued Open Records Letter Nos. 2010-02193 (2010) and 2009-17487 (2009). In Open Records Letter Nos. 2010-02193 and 2009-17487, we held, with the exception of basic information, report number 0911110121 may be withheld under section 552.108(a)(1) of the Government Code. You also state report number 0912040018 was the subject of a previous request for information in response to which this office issued Open Records Letter No. 2010-00083 (2010). In Open Records Letter No. 2010-00083, we held marked portions of report number 0912040018 may be withheld under section 552.108(a)(1). As we have no indication that the law, facts, and circumstances on which the prior rulings were based have changed, to the extent report numbers 0911110121 and 0912040018 were ruled upon in Open Records Letter Nos. 2010-02193, 2009-17487, and 2009-00083, the department may continue to withhold those reports in accordance with the prior rulings. *See* Open Records Decision No. 673 (2001) (so long as law, facts, circumstances on which prior ruling was based have not changed, first type of previous determination exists where requested information is precisely same information as was addressed in prior attorney general ruling, ruling is addressed to same governmental body, and ruling concludes that information is or is not excepted from disclosure). We note you have submitted supplements and other documents related to report number 0912040018 that

were not at issue in Open Records Letter No. 2010-00083. Therefore we will address your argument against disclosure of this information.

Section 552.108(a)(1) of the Government Code excepts from disclosure “[i]nformation held by a law enforcement agency or prosecutor that deals with the detection, investigation, or prosecution of crime . . . if . . . release of the information would interfere with the detection, investigation, or prosecution of crime[.]” Gov’t Code § 552.108(a)(1). A governmental body claiming section 552.108 must reasonably explain how and why the release of the requested information would interfere with law enforcement. *See id.* § 552.301(e)(1)(A); *see also Ex parte Pruitt*, 551 S.W.2d 706 (Tex. 1977). You assert the marked portions of the supplements and other documents related to report number 0912040018 pertain to a pending criminal investigation and that release of this information would interfere with the detection, investigation, or prosecution of that case. Based on your representations and our review, we conclude section 552.108(a)(1) is applicable to the information at issue. *See Houston Chronicle Publ’g 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) (court delineates law enforcement interests that are present in active cases). Therefore the department may withhold the marked portions of the supplements and other documents related to report number 0912040018 under section 552.108(a)(1).

We note you marked vehicle identification numbers and Texas license plate numbers, types, and years in report number 0712200182 and its related documents. Section 552.130 of the Government Code excepts from disclosure information that relates to a motor vehicle operator’s license, driver’s license, motor vehicle title, or registration issued by a Texas agency. Gov’t Code § 552.130(a)(1), (2). Therefore, the department must withhold the vehicle identification numbers and Texas license plate numbers, types, and years you marked in report number 0712200182 and its related documents under section 552.130.<sup>1</sup>

In summary, with the exception of report number 0912040018, to the extent the department maintains records listing the named individual as a suspect, arrestee, or criminal defendant, the department must withhold this information under section 552.101 in conjunction with common-law privacy. To the extent report numbers 0911110121 and 0912040018 were ruled upon in Open Records Letter Nos. 2010-02193, 2009-17487, and 2009-00083, the department may continue to withhold those reports in accordance with those prior rulings. The department may withhold the marked portions of the supplements and other documents related to report number 0912040018 under section 552.108(a)(1). The department must withhold the vehicle identification numbers and Texas license plate numbers, types, and

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<sup>1</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 license plate number, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

years you marked in report number 0712200182 and its related documents under section 552.130. The remaining information 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,



Jessica Eales  
Assistant Attorney General  
Open Records Division

JCE/eeg

Ref: ID# 371812

Enc. Submitted documents

c: Requestor  
(w/o enclosures)