



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

May 17, 2010

Mr. Bryan McWilliams  
Public Safety Legal Advisor  
Assistant City Attorney  
P.O. Box 1971  
Amarillo, Texas 79105-1971

OR2010-07043

Dear Mr. McWilliams:

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#379496.

The Amarillo Police Department (the "department") received a request for all public information, including arrests, warrants, citations, judgements, and complaints, surrounding two named individuals. You state a portion of the requested information has been released to the requestor. You claim that the submitted 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. 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. This office has found that 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. In this instance, the requestor asks the department to compile unspecified law enforcement records

pertaining to two specified individuals. This request implicates these individuals' right to privacy. Thus, to the extent the department maintains law enforcement records depicting the specified individuals as suspects, arrestees, or criminal defendants, the department must withhold such information under section 552.101 in conjunction with common-law privacy.

We note, however, that you have submitted information, which does not list the specified individuals as suspects, arrestees, or criminal defendants. Section 552.101 also encompasses information made confidential by section 371.206 of the Finance Code, which reads as follows:

Information obtained during an examination or inspection authorized by this subchapter is confidential and privileged except for use by the [consumer credit] commissioner or in a criminal investigation or prosecution.

Fin. Code § 371.206. Additionally, section 371.204 of the Finance Code requires a pawnbroker to allow a peace officer to inspect the pawnbroker's books, accounts, papers, correspondence, or other records that relate to the business of the pawnbroker at any reasonable time without judicial writ or other process. *See id.* § 371.204. You state that a portion of the requested information was acquired during an examination or inspection of a pawn shop as authorized under section 371.204. Based upon your representation and our review, we conclude that the information you have marked is confidential pursuant to section 371.206 of the Finance Code. Therefore, the department must withhold this information pursuant to section 552.101 of the Government Code in conjunction with section 371.206 of the Finance Code.

We note section 552.130 of the Government Code exempts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state [or] a motor vehicle title or registration issued by an agency of this state."<sup>1</sup> Gov't Code § 552.130(a). Thus, the department must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code.<sup>2</sup>

In summary: 1) to the extent the department maintains law enforcement records depicting the specified individuals as suspects, arrestees, or criminal defendants, the department must withhold such information under section 552.101 in conjunction with common-law

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<sup>1</sup>The Office of the Attorney General will raise a mandatory exception like section 552.130 on behalf of a governmental body, but ordinarily will not raise other exceptions. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<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 Texas driver's license numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. *See* ORD 684 (2009).

privacy; 2) the department must withhold the information you have marked pursuant to section 552.101 of the Government Code in conjunction with section 371.206 of the Finance Code; 3) the department must withhold the Texas motor vehicle record information we have marked pursuant to section 552.130 of the Government Code. 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,

A handwritten signature in black ink, appearing to read 'VB', is written over a horizontal line.

Vanessa Burgess  
Assistant Attorney General  
Open Records Division

VB/jb

Ref: ID#379496

Enc. Submitted documents

c: Requestor  
(w/o enclosures)