



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

June 3, 2010

Ms. LeAnn M. Quinn, TRMC  
City Secretary  
City of Cedar Park  
600 North Bell Boulevard  
Cedar Park, Texas 78613

OR2010-08024

Dear Ms. Quinn:

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# 381733 (Reference Number 10-312).

The Cedar Park Police Department (the "department") received a request for all records during a specified period of time pertaining to a named individual. You state the department will release some of the requested information, including basic information. *See* Gov't Code § 552.108(c) (basic information about an arrested person, an arrest, or a crime is not excepted under section 552.108); *see also* Open Records Decision No. 127 (1976) (summarizing types of information considered to be basic information). You claim that the submitted information is excepted from disclosure under sections 552.108, 552.130, and 552.147 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."<sup>1</sup> 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

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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. *See* Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

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 records pertaining to a named individual. We find that this request requires the department to compile unspecified law enforcement records concerning the named individual. Such a request implicates the named individuals' privacy rights. Thus, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy.<sup>2</sup> However, you have submitted information that does not relate to the named individual as a suspect, arrestee, or criminal defendant. These reports do not implicate the privacy interests of the named individual. Thus, we will address your arguments against the disclosure of this information.

You claim that Exhibit D is excepted under section 552.108(a)(2) of the Government Code, which excepts from disclosure information concerning an investigation that did not result in conviction or deferred adjudication. *See id.* § 552.108(a)(2). A governmental body claiming section 552.108(a)(2) must demonstrate that the requested information relates to a criminal investigation that has concluded in a final result other than a conviction or deferred adjudication. *See id.* § 552.301(e)(1)(A) (governmental body must provide comments explaining why exceptions raised should apply to information requested). You state Exhibit D pertains to a closed case that did not result in conviction or deferred adjudication. Based on your representation and our review, we conclude that Exhibit D may be withheld under section 552.108(a)(2) of the Government Code.<sup>3</sup>

Next, you have marked some of the remaining information under section 552.130 of the Government Code. Section 552.130 excepts from disclosure "information [that] relates to . . . a motor vehicle operator's or driver's license or permit issued by an agency of this state

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<sup>2</sup>As our ruling on this information is dispositive, we do not address your remaining arguments against its disclosure.

<sup>3</sup>As our ruling is dispositive, we do not address your remaining arguments against disclosure of this information.

[or] a motor vehicle title or registration issued by an agency of this state[.]” *Id.* § 552.130. We note you have marked information pursuant to 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 and license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision. Accordingly, we agree that the department may withhold the Texas driver’s license and license plate numbers you have marked in the remaining information pursuant to Open Records Decision No. 684 without seeking a decision from our office. We note that the vehicle identification number you have marked is not subject to Open Records Decision No. 684 and may not be redacted without requesting an attorney general decision. Upon review, we find that the department must withhold the vehicle identification number you have marked in the remaining information, under section 552.130 of the Government Code.

In summary, to the extent the department maintains law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the department must withhold any such information under section 552.101 of the Government Code in conjunction with common-law privacy. The department may withhold Exhibit D under section 552.108(a)(2) of the Government Code. The department must withhold the information you 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](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,



Sarah Casterline  
Assistant Attorney General  
Open Records Division

SEC/eeg

Ref: ID# 381733

Enc. Submitted documents

c: Requestor  
(w/o enclosures)