



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 1, 2010

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

OR2010-09745

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# 385024.

The City of Kingsville (the "city") received a request for (1) the arrest records of a named individual, including arrest reports and court disposition documentation; (2) telephone records of a named individual for a specified time period; and (3) e-mails from a named individual for a specified time period. You state the city provided the requestor with information responsive to the second and third items of the request. You claim the submitted information is 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.

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. This section 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. 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 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* § 442.082(2)(B) (criminal history record information does not include driving record information). The present request requires the city to compile unspecified law enforcement records concerning the individual at issue. Therefore, to the extent the city maintains unspecified law enforcement records depicting the named individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy.<sup>1</sup>

We note, however, the city has submitted a law enforcement record related to a routine traffic violation which does not implicate the named individual's privacy under section 552.101 of the Government Code. Because this information is not part of a compilation of the individual's criminal history, the city may not withhold it under section 552.101 in conjunction with common-law privacy. We note this information includes the named individual's Texas driver's license number, which is subject to section 552.130 of the Government Code.<sup>2</sup> Section 552.130 excepts from disclosure information that relates to a motor vehicle operator's license, driver's license, or permit issued by an agency of this state. *Gov't Code* § 552.130(a)(1). Thus, the city must withhold the driver's license number we have marked under section 552.130.<sup>3</sup>

In summary, to the extent the city maintains any information that depicts the named individual as an arrestee, criminal defendant, or suspect, 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 the Texas driver's license number we have marked under section 552.130 of the Government Code. The remaining information must be released.

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<sup>1</sup>As our ruling is dispositive for this information, we need not address your argument under section 552.108 of the Government Code against its release.

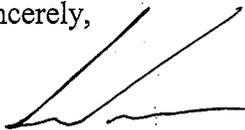
<sup>2</sup>The Office of the Attorney General will raise a mandatory exception on behalf of a governmental body, but ordinarily will not raise other exceptions. Open Records Decision Nos. 481 (1987), 480 (1987), 470 (1987).

<sup>3</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 under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

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,



Ana Carolina Vieira  
Assistant Attorney General  
Open Records Division

ACV/eeg

Ref: ID# 385024

Enc. Submitted documents

c: Requestor  
(w/o enclosures)