



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

July 22, 2010

Mr. Gregory A. Alicie  
Open Records Specialist  
Baytown Police Department  
3200 North Main Street  
Baytown, Texas 77521

OR2010-11000

Dear Mr. Alicie:

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# 387636 (Baytown PIR #1829).

The City of Baytown and the Baytown Police Department (collectively, the "city") received a request for the following five categories of information: (1) documents referencing police calls or investigations conducted at a specified address during a specified period; (2) documents referencing communication between the city and local pawnshops concerning transactions conducted by a named individual during a specified period; (3) documents that list the identity of each person or entity that have made a criminal complaint or allegation against the named individual during a specified period; (4) any Harris County, Texas, criminal warrants, charges, complaints, or indictments pertaining to the named individual during a specified period; and (5) any city criminal warrants, charges, complaints, tickets, or indictments pertaining to the named individual during a specified period. You state the city has released information responsive to category one of the request. You also state the city does not have any information responsive to categories two or four of the request.<sup>1</sup> You claim the submitted information is excepted from disclosure under sections 552.101,

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<sup>1</sup>The Act does not require a governmental body to release information that did not exist when a request for information was received, create responsive information, or obtain information that is not held by or on behalf of the governmental body. See *Econ. Opportunities Dev. Corp. v. Bustamante*, 562 S.W.2d 266, 267-68 (Tex. Civ. App.—San Antonio 1978, writ dism'd); Open Records Decision No. 452 at 3 (1986).

552.130, 552.136, 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." Gov't Code § 552.101. Section 552.101 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. 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 that a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

The present request, in part, requires the city to compile unspecified law enforcement records concerning the named individual. We find this request for unspecified law enforcement records implicates the privacy rights of the named individual. Therefore, to the extent the city maintains law enforcement records depicting this individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 in conjunction with common-law privacy. However, you have submitted report number 2009-28084, which does not list the named individual as a suspect, arrestee, or criminal defendant. This report does not implicate the privacy interests of the named individual and the city may not withhold it under section 552.101 of the Government Code based on common-law privacy. However, we will consider your other raised exceptions for this report.

Section 552.101 of the Government Code also encompasses information made confidential by other statutes. You seek to withhold report number 2009-28084 under section 552.101 in conjunction with chapter 550 of the Transportation Code. Section 550.065(b) of the Transportation Code states that except as provided by subsection (c) or subsection (e), accident reports are privileged and confidential. *See* Transp. Code § 550.054(b). This section applies to accident report forms prepared in accordance with chapter 550 or section 601.004 of the Transportation Code. *See id.* § 550.054(a); *see also id.* § 550.064 (Texas Peace Officer's Accident Report form). There is no indication report number 2009-28084 was prepared in accordance with chapter 550 or section 601.004 of the Transportation Code. We therefore determine report number 2009-28084 is not confidential under section 550.065(b) and may not be withheld under section 552.101 on that basis.

You marked Texas motor vehicle record information in report number 2009-28084 under section 552.130 of the Government Code. Section 552.130 excepts from disclosure information relating 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). We agree the city must withhold the Texas motor vehicle record information you marked under section 552.130.<sup>2</sup>

You also marked partial social security numbers in report number 2009-28084 which you claim are excepted from disclosure under section 552.147 of the Government Code. This section provides "[t]he social security number of a living person is excepted from" required public disclosure under the Act. *Id.* § 552.147. Therefore, the city may withhold the marked partial social security numbers in the remaining information under section 552.147 of the Government Code.<sup>3</sup>

In summary, to the extent the city maintains law enforcement records depicting this individual as a suspect, arrestee, or criminal defendant, the city must withhold such information under section 552.101 of the Government Code in conjunction with common-law privacy. The city must withhold the Texas motor vehicle record information you marked under section 552.130 of the Government Code, and may withhold the partial social security numbers you marked under section 552.147 of the Government Code. The remaining information in report number 2009-28084 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.

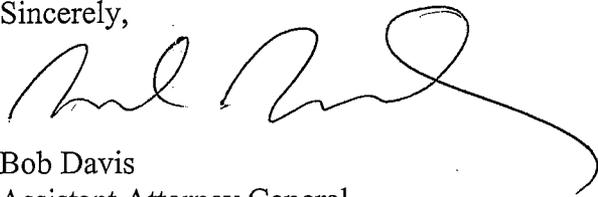
This ruling triggers important deadlines regarding the rights and responsibilities of the governmental body and of the requestor. For more information concerning those rights and responsibilities, please visit our website at [http://www.oag.state.tx.us/open/index\\_orl.php](http://www.oag.state.tx.us/open/index_orl.php), 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.

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<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 license plate numbers under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

<sup>3</sup>We note that section 552.147(b) of the Government Code authorizes a governmental body to redact a living person's social security number from public release without the necessity of requesting a decision from this office under the Act. *Id.* § 552.147(b).

Sincerely,

A handwritten signature in black ink, appearing to read 'Bob Davis', with a long, sweeping underline that extends to the right.

Bob Davis  
Assistant Attorney General  
Open Records Division

RSD/eeg

Ref: ID# 387636

Enc. Submitted documents

cc: Requestor  
(w/o enclosures)