



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

September 21, 2010

Ms. Yvette Aguilar  
Assistant City Attorney  
City of Corpus Christi  
321 John Sartain  
Corpus Christi, Texas 78401

OR2010-14255

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# 394060.

The Corpus Christi Police Department (the "department") received a request for all domestic abuse reports involving herself and a named individual during a specified time period. You claim 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. 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. 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. You state the present request requires the department to compile unspecified law enforcement records concerning the named individual. After reviewing the request and

the submitted information, we believe the requestor is seeking specific domestic violence abuse reports involving herself and the named individual. Accordingly, we find that the named individual's right to privacy has not been implicated by this request and none of the submitted information may be withheld under common-law privacy on this basis.

We note the submitted information includes information subject to section 261.201 of the Family Code, which is also encompassed by section 552.101 of the Government Code, and provides in part:

(a) [T]he following information is confidential, is not subject to public release under [the Act] and may be disclosed only for purposes consistent with this code and applicable federal or state law or under rules adopted by an investigating agency:

(1) a report of alleged or suspected abuse or neglect made under this chapter and the identity of the person making the report; and

(2) except as otherwise provided in this section, the files, reports, records, communications, audiotapes, videotapes, and working papers used or developed in an investigation under this chapter or in providing services as a result of an investigation.

...

(k) Notwithstanding Subsection (a), an investigating agency, other than the [Texas Department of Family and Protective Services] or the Texas Youth Commission, on request, shall provide to the parent, managing conservator, or other legal representative of a child who is the subject of reported abuse or neglect, or to the child if the child is at least 18 years of age, information concerning the reported abuse or neglect that would otherwise be confidential under this section. The investigating agency shall withhold information under this subsection if the parent, managing conservator, or other legal representative of the child requesting the information is alleged to have committed the abuse or neglect.

(l) Before a child or a parent, managing conservator, or other legal representative of a child may inspect or copy a record or file concerning the child under Subsection (k), the custodian of the record or file must redact:

...

(3) the identity of the person who made the report.

Fam. Code § 261.201(a), (k), (l)(3); *see also id.* § 261.001(1)(E) (definition of "abuse" includes sexual assault of a child under section 22.011, Penal Code); *see also* Penal Code § 22.011(c)(1) (defining "child" for purposes of Penal Code section 22.011 as a person

younger than 17 years of age). Upon review, we find a portion of the submitted information was used or developed in an investigation of alleged or suspected child abuse under chapter 261 of the Family Code, so as to fall within the scope of section 261.201(a). However, the requestor is the child victim listed in the information at issue and is now at least 18 years of age. Therefore, the department may not use section 261.201(a) to withhold this information from this requestor. *Id.* § 261.201(k). However, section 261.201(1)(3) provides that the identity of the person who made the report must still be withheld from disclosure. *Id.* § 261.201(1)(3). Accordingly, the department must withhold the identity of the reporting party, which we have marked, under section 552.101 of the Government Code in conjunction with section 261.201(1)(3). As you raise no further exceptions against disclosure, the remaining information must be released to this requestor.<sup>1</sup>

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\\_or1.php](http://www.oag.state.tx.us/open/index_or1.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,



Jennifer Burnett  
Assistant Attorney General  
Open Records Division

JB/dls

Ref: ID# 394060

Enc. Submitted documents

c: Requestor  
(w/o enclosures)

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<sup>1</sup>The requestor has a special right of access under section 261.201(k) of the Family Code to some of the information being released. If the department receives another request for this same information from an individual who does not have a right of access to the information, the department should request another ruling. See Gov't Code §§ 552.301, .302; Open Records Decision No. 673 (2001).