



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

October 18, 2010

Mr. Ronald J. Bounds
Assistant City Attorney
City of Corpus Christi
P.O. Box 9277
Corpus Christi, Texas 78469-9277

OR2010-15795

Dear Mr. Bounds:

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# 397139.

The Corpus Christi Police Department (the "department") received a request for all reports involving a named individual, including assault reports from 2000 to 2010. You state you are releasing some of the requested information with redactions pursuant to section 552.130 of the Government Code and Open Records Decision No. 684 (2009). 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. 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. 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) (finding significant

privacy interest in compilation of individual's criminal history by recognizing distinction between public records found in courthouse files and local police stations and compiled summary of criminal history information). We further find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public.

You assert the present request requires the department to compile the criminal history of the named individual. After reviewing the request and the submitted information, however, we believe the requestor is seeking, in part, specific domestic violence reports involving the named individual in which the requestor is the victim. Accordingly, this portion of the request does not implicate the named individual's right to privacy, and the incident reports of domestic violence involving the requestor and the named individual may not be withheld under section 552.101 on the basis of common-law privacy. However, to the extent the department maintains other 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.

We note the submitted information contains information subject to section 552.130 of the Government Code, which provides that information relating to a motor vehicle operator's license or driver's license issued by a Texas agency is excepted from public release.¹ Gov't Code § 552.130(a)(1). Accordingly, the department must withhold the Texas driver's license number we have marked under section 552.130.²

In summary, except for domestic violence reports involving the named individual in which the requestor is the victim, 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 must withhold the Texas driver's license number we have marked under section 552.130 of the Government Code. The department must release the remaining information.³

¹The 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).

²We 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.

³We note the requestor, as one of the individuals whose information is at issue, has a right of access to her own driver's license number. *See* Gov't Code § 552.023(a). Accordingly, if the department receives another request for the information from an individual other than an individual with a right of access under section 552.023, the department is authorized to withhold the Texas driver's license numbers under section 552.130 without the necessity of requesting an attorney general decision. *See* ORD 684.

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, 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 "Mack T. Harrison". The signature is fluid and cursive, written over a horizontal line.

Mack T. Harrison
Assistant Attorney General
Open Records Division

MTH/em

Ref: ID# 397139

Enc. Submitted documents

c: Requestor
(w/o enclosures)