



ATTORNEY GENERAL OF TEXAS  
GREG ABBOTT

November 9, 2010

Ms. Michelle L. Villarreal  
Assistant City Attorney  
City of Waco, Legal Services  
P.O. Box 2570  
Waco, Texas 76702-2570

OR2010-16959

Dear Ms. Villarreal:

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# 400682 (City of Waco # LGL-10-1228).

The Waco Police Department (the "department") received a request for criminal records, including incident reports and dispositions, of two named individuals. You claim that the submitted information is excepted from disclosure under sections 552.101 and 552.130 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 if it (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 established. *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. 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). Moreover, we find a compilation of a private citizen's criminal history is generally not of legitimate concern to the public. However, information that refers to an individual solely as a victim, witness, or involved person is not private and may not be withheld under section 552.101 on that basis.

The requestor, in this instance, seeks all records involving his client and another named individual. This request, which requires the department to compile unspecified law enforcement records concerning an individual other than the requestor's client, implicates this individual's right to privacy. Therefore, to the extent the department maintains law enforcement records depicting the individual who is not the requestor's client 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 you have submitted a report that lists both individuals as involved parties, and does not list the individual who is not the requestor's client as a suspect, arrestee, or criminal defendant. Thus, this information is generally not part of a criminal history compilation. However, upon review, we determine the information we have marked within this report is highly intimate and embarrassing and not of legitimate public concern. Thus, the department must withhold this marked information under section 552.101 of the Government Code in conjunction with the common-law right of privacy.

Section 552.130 provides information relating to a motor vehicle operator's license, driver's license, motor vehicle title, or registration issued by a Texas agency is excepted from public release. Gov't Code § 552.130(a)(1), (2). Upon review, we find portions of Report No. 10-2388 consist of Texas motor vehicle record information. Accordingly, the department must withhold the Texas motor vehicle record information we have marked under section 552.130 of the Government Code.<sup>1</sup>

In summary: (1) to the extent the department maintains law enforcement records depicting the individual who is not the requestor's client 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; (2) the department must withhold the information we have marked in Report No. 10-2388 under section 552.101 in conjunction with common-law privacy; and (3) the department must withhold the marked Texas driver's license number in Report No. 10-2388 under section 552.130 of the Government Code. The department must release the remaining information.

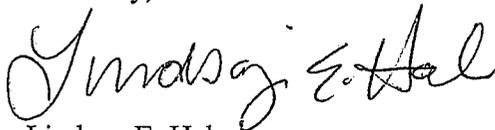
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<sup>1</sup>We note this office recently issued Open Records Decision No. 684 (2009), a previous determination to all governmental bodies authorizing them to withhold ten categories of information, including Texas driver's license numbers under section 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,

A handwritten signature in cursive script that reads "Lindsay E. Hale".

Lindsay E. Hale  
Assistant Attorney General  
Open Records Division

LEH/bs

Ref: ID# 400682

Enc. Submitted documents

c: Requestor  
(w/o enclosures)