



ATTORNEY GENERAL OF TEXAS
GREG ABBOTT

December 3, 2010

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

OR2010-18146

Dear Ms. Villareal:

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# 401863 (Waco Ref. LG-10-1267).

The City of Waco (the "city") received a request for police records relating to all incidents at a specified place during a specified time. You state that some responsive information has already been released to the requestor. You claim that portions of the submitted information are excepted from disclosure under sections 552.130, 552.137, and 552.147 of the Government Code. We have considered the exceptions you claim and reviewed the submitted information.

Initially, we note that the submitted information contains a CRB-3 accident report that was completed pursuant to chapter 550 of the Transportation Code. *See* Transp. Code § 550.062 (accident report). Section 550.065(b) of the Transportation Code states that except as provided by subsection (c), accident reports are privileged and confidential. Transp. Code § 550.065(b)-(c). Section 552.101 of the Government Code excepts from disclosure under the Act "information considered to be confidential by law, either constitutional, statutory, or by judicial decision," and thus encompasses accident reports made confidential by the Transportation Code. Gov't Code § 552.101. Section 550.065(c)(4) of the Transportation Code, however, requires the release of accident reports to a person who provides two of the following three pieces of information: (1) date of the accident; (2) name of any person involved in the accident; and (3) specific location of the accident. Transp. Code § 550.065(c)(4). In this instance, the requestor has not provided the city with two of the three requisite pieces of information specified by the statute. Accordingly, the city must withhold the submitted CRB-3 accident report form under section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code.

Second, section 552.101 of the Government Code also encompasses the common-law right to privacy, which protects information if (1) the information contains highly intimate or embarrassing facts, the publication of which would be highly objectionable to a reasonable person, and (2) the information 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 met. *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. Thus, the city must withhold the information we have marked under section 552.101 in conjunction with common-law privacy.

Third, we address your argument under section 552.130 of the Government Code. This section provides, in relevant part:

(a) Information is excepted from [required public disclosure] if the information relates to:

(1) a motor vehicle operator's or driver's license or permit issued by an agency of this state; [or]

(2) a motor vehicle title or registration issued by an agency of this state[.]

Gov't Code § 552.130(a). We agree that the city must withhold the information you have marked pursuant to section 552.130.¹ We have marked additional information that must also be withheld under this section.

Fourth, we note that you have marked an email address to be withheld pursuant to section 552.137 of the Government Code. This section provides that "an e-mail address of a member of the public that is provided for the purpose of communicating electronically with a governmental body is confidential and not subject to disclosure under [the Act]," unless the owner of the e-mail address has affirmatively consented to its public disclosure. Gov't Code § 552.137(a)-(b). However, this exception is not applicable to an institutional e-mail

¹We note this office 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, a copy of a Texas driver's license, and a Texas license plate number, under section 552.130 of the Government Code, without the necessity of requesting an attorney general decision.

address, an internet website address, or an e-mail address that a governmental entity maintains for one of its officials or employees. You have marked an e-mail address belonging to an employee of a governmental body. This e-mail address, which we have marked for release, may not be withheld under section 552.137.

Finally, you have marked social security numbers to be withheld under section 552.147. This section protects "[t]he social security number of a living person" from required public disclosure. The city may withhold social security numbers pertaining to living individuals under section 552.147.²

In summary, the CRB-3 accident report must be withheld pursuant to section 552.101 of the Government Code in conjunction with section 550.065(b) of the Transportation Code. The city must withhold the information we have marked pursuant to section 552.101 in conjunction with common-law privacy. The marked motor vehicle record information must be withheld under section 552.130. Social security numbers pertaining to living individuals may be withheld under section 552.147. The remaining information, including the marked e-mail address, must be released to the requestor.

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,



Misty Haberer Barham
Assistant Attorney General
Open Records Division

MHB/eeg

² Furthermore, section 552.147(b) 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.

Ref: ID# 401863

Enc. Submitted documents

c: Requestor
(w/o enclosures)